

**BOARD OF SUPERVISORS
TRANSPORTATION AND LAND USE COMMITTEE
INFORMATION ITEM**

SUBJECT: Affordable Dwelling Unit (ADU) Program

ELECTION DISTRICT(S): Countywide

STAFF CONTACTS: Sarah Coyle Etro, Assistant Director, Family Services
Ellen Grunewald, Director, Family Services

BACKGROUND:

Supervisor Volpe, Transportation and Land Use Committee Chair, requested that an information item be prepared that provides a comprehensive overview of the Affordable Dwelling Unit (ADU) program to include its history; a description of legislative changes over time; an explanation of the income eligibility criteria, waiting list priorities, buy-out provisions, and changes in lender practices that have affected the program; information about how the program has addressed foreclosures and increased market sales; and a description of the County of Loudoun Housing Trust and how it has been used.

Program Development:

The ADU program was initiated by the Board of Supervisors (Board) in 1993 with the adoption of Article 7 of the Zoning Ordinance (Attachment 1). Chapter 1450 of the County Code provides direction as to program administration (Attachment 2). Prior to the adoption of these Ordinances, the Board, through an advisory committee, studied the affordability gap between what the existing and future workforce earned and what income was needed to buy the housing being produced in the County. The affordability gap was determined to be for households with incomes below 70% (\$75,110 for 2013) of the Washington Metropolitan Statistical Area Median Income (AMI). (100% AMI for 2013 is \$107,300.) Through state enabling legislation, the County was granted the ability to require developers to set aside a certain number of units they were building that would be available for purchase or rent by moderate income workers. ADUs include units for purchase by first-time homebuyers and units for rent. Currently (as of January 31, 2013), 1692 For-Sale ADUs are owned and 336 Rental ADUs are rented by ADU Certificate Holders (Attachment 3).

In 2006, the Housing Advisory Board studied the issue of housing affordability by hiring AECOM Consult ("AECOM"). The study focused on answering five questions: What is the market demand for housing in Loudoun County? What is the right mix of housing units in Loudoun County? What should the annual supply of affordable housing be in Loudoun County? What jobs are coming to Loudoun County and what will they pay? What is considered an

acceptable commuting distance? The AECOM study showed that the housing affordability gap for moderate income households had widened from below 70% AMI (\$75,110 for 2013) up to 100% AMI (\$107,300 for 2013) and reiterated that there is a large deficit in housing for very low income households (below 30% AMI (\$32,190 for 2013)). The Board reviewed housing policies and revised them to identify the County's policy and programmatic focus on the unmet housing needs of "households earning up to 100% of the Washington Metropolitan Area Median Income (AMI) that being the area of greatest need." (Revised General Plan, Housing Policy 2) The ADU program helps address part of the County's unmet housing needs by providing housing for incomes from 30% AMI (\$32,190 for 2013) to 70% AMI (\$75,110 for 2013).

Ordinance Provisions:

The County Zoning Ordinance requires that for every development of 50 units or more at a density greater than 1 dwelling unit per 40,000 square feet in an area served by public water and sewer, developers will provide 12.5% of the project's single family attached and single family detached units, and 6.25% of the multi-family units, as ADUs to be made available to households with incomes between 30% AMI (\$32,190 for 2013) and 70% AMI (\$75,110 for 2013). The ADUs are provided at a reduced price by the builder. The price is set by the Affordable Dwelling Unit Advisory Board (ADUAB). The Board has amended the Ordinances several times (Attachment 4).

Significant revisions include:

- June 16, 1999. Chapter 1450 was repealed and re-adopted in its entirety in 1999. The new version of the Ordinance added the ability of non-profits to purchase ADUs once qualified by the Board of Supervisors; added the opportunity for a 1.5% realtor sales commission to help ADU buyers; specified the use of the Washington Metropolitan Statistical Area Median Income (AMI) in determining income eligibility; added the profit split (market price – ADU value = profit) between County and seller on ADUs sold at market; and added a real estate agent and program participant member to the ADUAB.
- July 10, 2000. Article 7 of the Zoning Ordinance was amended to require developers to provide 6.25% of all unit types as ADUs and set the optional density bonus at 10%. It also added that the cash buy-out contribution can be paid prior to the issuance of the first zoning permit or at a time specified by the Board of Supervisors.
- December 15, 2003. Changes to Article 7 now require the number of ADUs to be 12.50% for single-family attached and detached units, and increased the optional density bonus to 20% for those unit types.

Affordable Dwelling Unit Advisory Board:

The ADUAB is appointed by the Board of Supervisors and is required by Chapter 1450 of the Codified Ordinances to be comprised of representatives of many aspects of the building industry, including for-profit single-family and multi-family developers; a residential lender; a qualified, non-profit housing group providing services in Loudoun County; a civil engineer, architect, land surveyor, or planner; a real estate agent; a program participant; a representative of the Loudoun County Department of Planning; an at-large member; and a representative of the Board of Supervisors (Attachment 5). The ADUAB meets once a month and has several active committees that also meet, including the Finance, Builder's, and Zoning Modification committees. The ADUAB Finance Committee membership also serves on the Joint Trust Fund Committee, which makes recommendations to the Board of Supervisors on expenditures from the Housing Funds.

Community Partners:

Many facets of the building industry are involved in the ADU program. Builders supply the ADUs and the County income-qualifies the Certificate Holders, both buyers and renters. (Builders currently providing ADUs include: NVR, Ryan, Winchester, MI Homes, NV Homes, Van Metre, K. Hovnanian and Toll Brothers.) The ADUAB collaborates with builders to make the program workable in setting sales prices. Certificate Holders use banks to provide mortgages and title companies to close loans. The County has used the contracted services of realtors and title companies to sell the ADUs that the County has purchased. The County also works closely with the property managers of fourteen apartment complexes that provide ADUs (Attachment 6).

Program Operation:

Process for Obtaining an ADU Certificate of Eligibility. The Department of Family Services provides support to the ADUAB and its subcommittees; manages the qualification of program participants according to the income requirements set forth in Article 7 of the Zoning Ordinance; and manages the waiting list. Applicants provide income information (pay stubs, credit report, tax returns, mortgage pre-approval letters, etc.) to apply for an ADU Certificate. Once determined to be income eligible, applicants attend an extensive intake session where the process for home selection and the obligations of the program are provided to them. Once income-eligibility is established and the applicant has been through the intake session, they become ADU Certificate Holders eligible to access an ADU to purchase or rent. The County does not provide first trust financing for ADUs. On their own, the Certificate Holder must secure a mortgage from a bank.

For Rental ADUs, the County determines income eligibility and then directs Certificate Holders to the apartment complexes that have ADUs to rent. The Certificate Holder signs the individual complex's lease and rents the unit for the reduced rent established annually by the ADUAB. The ADU renter must verify income every year to establish eligibility for the program (Program processes are described in Attachment 7).

Builder Process. Once a re-zoning application or a subdivision application is approved, the number of required ADUs is determined, and the Builder receives a zoning permit, the Builder notifies the County through a Notice of Availability (NOA) that he has begun building ADUs. The Department of Family Services sends the Builder all the names of ADU Certificate Holders on the waiting list in priority order and distributes the Builder's marketing materials to the waiting list. The Certificate Holders are invited to visit the development and talk with the Builder's Sales Representative about the available ADUs. The ADU Certificate Holder either signs a contract to purchase or opts not to purchase.

Waiting List Organization. For the ADU Purchase program, the waiting list is established by the date and time of eligibility determination. A Certificate of Eligibility is applicable for one year and the Purchase program waiting list is organized by four priorities. The waiting list priorities include:

- Priority 1 (People who live and work in the County);
- Priority 2 (People who work in the County);
- Priority 3 (People who live in the County, but work elsewhere);
- Priority 4 (Non-County residents and non-County workers).

The County provides marketing materials to all Certificate Holders on the waiting list. The Builder is provided with the waiting list in priority order. During the initial 10 day marketing period, the Builder is responsible for accepting contracts on ADUs in priority order. After the initial 10 day marketing period, the Builder can accept contracts on a first-come first-served basis if there are still units available. The ADU rental waiting list is organized on a first-come, first-served basis. The following statistics relate to the ADU waiting lists (as of January 31, 2013):

	Purchase	Rental
Number of Households on waiting list	99	116
Number of Households on waiting list by priority	----	----
Priority 1 (Live/Work in the County)	59	----
Priority 2 (Live in the County)	17	----
Priority 3 (Work in the County)	12	----
Priority 4 (Neither Live nor Work in the County)	11	----

The program currently allows a Certificate Holder the choice as to which ADU to purchase. A Certificate Holder retains position on the waiting list even if determining not to purchase an available ADU. A variety of unit sizes (number of bedrooms and square footage); unit types (townhouses; apartment-style condominiums; two floor condominiums over two floor condominiums (2 over 2s) and two floor condominiums over one floor condominiums (2 over 1s), etc.); locations; costs (HOA fees, Earnest Money Deposits) are provided in the ADU program based on what is being developed in the County. Households on the waiting list also vary in terms of family size, job location, children's school locations, liquid assets for down payments, monthly incomes for HOA fees, etc. Because of these variables, not all ADUs fit the needs of every Certificate Holder.

Program Participants:

The ADU program has attracted a variety of households including both single individuals and families. The average family size is 2.5 people per household. The average income of households served is \$39,546 for Certificate Holders purchasing ADUs and \$36,546 for ADU renters. Program participants are relatively young with the average head of household for ADU owners 37.6 years of age and a little older for ADU renters at 46.4 years of age. Participants represent the general employment make-up of the Loudoun economy in terms of industries that they work in.

Of note for ADU owners is that:

- 9.9% work for Loudoun County Public Schools
- 5.6% are INOVA Loudoun Hospital Employees (another 4.85% work at other hospitals)
- 2.6% work in Loudoun County Public Safety
- 17% work in Retail
- 4.7% of ADU purchasers work in Airport-related jobs.

For the ADU rental program:

- 21% work in Retail
- 15% work in Professional and Technical Industries
- 8% work in Airport-related jobs
- 8.5% work in Accommodations/Food

Additional employment information is provided in Attachment 8.

County of Loudoun Housing Trust:

On August 12, 1997, the Board of Supervisors established the County of Loudoun Housing Trust as the repository for funds generated from the ADU program. The types of funds generated by the program include: cash buy-out provided by the Ordinance; affordable housing cash proffers that specify placement in the Trust; and half the profit from a market sale (market price minus ADU value divided in half). The balance of the Trust as of January 31, 2013 is \$13,868,531 (Attachment 9). According to the terms of the Trust Agreement, the Trust is to be used “to further the provisions of affordable dwelling units in Loudoun County . . . To spend the monies in the Trust in the manner in which the Trustee deems most appropriate in order to further the provision of affordable dwelling units to the Beneficiaries” (Attachment 10).

Through the actions of the Board of Supervisors, acting as Trustees of the County of Loudoun Housing Trust, many programs have been supported by this Trust including (Attachment 11):

- Down Payment and Closing Cost program
- Public Employee Homeownership Grant program

- Neighborhood Stabilization Program activities (acquisition, down payment and closing cost support)
- ADU Foreclosure Purchase Program
- Habitat for Humanity to support several projects
- Housing Funds Applications
- ADU Purchase Program

Market Sales:

Over the course of program history which began in 1993, 278 units have sold at market (Attachment 12). Chapter 1450 of the Codified Ordinances provides for a market sale of an ADU when the unit (newly built or a re-sale) does not sell in the 90 day prescribed timeframe. This timeframe gives Certificate Holders on the waiting list ample time to make a purchase and also ensures that the builder has a timely sale if a Certificate Holder does not purchase a unit. When the unit sells at market, the County receives one half of the difference between the actual sales price and the ADU price. The proceeds from the sale are deposited into the County of Loudoun Housing Trust to be used for affordable housing in accordance with the Trust Agreement. The County benefits from either a unit sold to a Certificate Holder, which is the preference, or the cash proceeds from a market sale, although those proceeds are typically insufficient to replace the unit in the program. Other ways a market sale may occur include when a unit is foreclosed on and sold by a trustee or when the 15 year covenant control period has expired.

In the current lending market, the inability to secure a loan is the largest issue faced by purchasers and appears to be having a dramatic effect on the number of market sales of ADUs in the past 18 months. Loan requirements (down payments, credit scores) have become very restrictive. The federal Department of Housing and Urban Development (HUD) has begun enforcing Mortgagee Letter 94-2 which restricts banks from lending to purchasers when there is a restrictive covenant that does not release upon foreclosure on the property, as is the case with the County's ADU Covenants. In this case, the banks will not get FHA-backed insurance for their loans. This has resulted in many lenders no longer making loans to ADU purchasers and has affected programs throughout the Commonwealth and across the nation. In January 2012, there were 7 lenders making mortgage loans to ADU purchasers in Loudoun County. By June, the number had dwindled to 3 lenders due to the tightening of mortgage lending practices. As of February 2013, the program has 4 lenders providing financing to ADU purchasers.

In the past, the Board of Supervisors approved the conversion of two ADU rental apartment complexes to For-Sale condominiums which resulted in a large number of ADUs of the same size, type and location hitting the market for sale at the same time. Of these two projects, 56 of the 66 Summerfield at Brambleton ADUs and 2 of the 43 Alexan at Ryan's Corner ADUs sold at market. In 2012, 95 ADUs sold at market at a time when the number of lenders providing mortgages fell due to restrictive lending practices.

Foreclosures:

The program has experienced some foreclosures in the past few years (Attachment 13). When the program began to experience foreclosures, the Department of Family Services in consultation with the ADUAB took the position that the covenants do not terminate upon foreclosure and the foreclosure re-sale must follow the procedures outlined in Chapter 1450 of the Codified Ordinances (which requires that the ADU be marketed for 90 days to a Certificate Holder). In October 2011, Judge Thomas D. Horne issued an opinion in *Board of Supervisors v. Renee Jefferson*, that foreclosures are not “re-sales” under the Ordinance and therefore the foreclosing Trustee may sell the ADU at the highest price the property will bring at an auction. The County filed a Petition for Appeal to the Supreme Court of Virginia seeking a review of the decision, but that Petition was not granted, so the ruling in *Jefferson* is now the law in Loudoun County. Given this ruling, the previous position of the County that the ADU covenants survive foreclosure is no longer supported. As a Trustee can now sell an ADU at foreclosure to the highest bidder, there are few legal avenues left to stop these foreclosures.

ADUAB & Staff Initiatives:

Over the past several years, the ADUAB and staff have been working on a variety of approaches to improving the program and reducing the number of ADUs being sold at market. Initiatives include:

- Recommendations for revisions to Article 7 and Chapter 1450 to include increasing the purchase option period timeframe and modifying the cash buyout formula;
- Increasing the number of households on the waiting list to ensure that there are ample Certificate Holders to purchase units;
- Improving the speed and number of Certificate Holders the Builder has access to;
- Improving communication with lenders to determine how the program could be revised to attract more lenders;
- Coordinating with other jurisdictions in the region that have ADU programs on collectively addressing HUD’s Mortgagee instructions;
- Providing a semi-annual training seminar to Builder’s Sales Representatives to ensure that they have what they need to market the program;
- Exploring revisions to the restrictive covenant;
- Purchasing ADUs in danger of market sale;
- Streamlining and expediting the approval process of applications for Certificates;
- Revising the Re-sale website to improve market exposure; and
- Surveying current ADU owners to gain insight on program operations.

ISSUES:

A significant issue facing the program is the market sale of ADUs and the expiration of the 15 year covenant control period for many units (Attachment 14). The ADU program has been a significant source of affordable housing in the County having produced approximately 2000 units for rent and purchase with approximately 1600 units that have not yet been built. As long as the County retains Article 7 in its current form, rezoning and subdivision activity will continue to produce ADUs even as ADUs begin to exit the program through covenant expiration, market sale, and foreclosure. The County of Loudoun Housing Trust has accumulated significant funding that so far has been allocated toward the Down Payment and Closing Cost Assistance program, the NSP program, the Housing Funds, the purchase of foreclosed and market sale ADUs, and other programs. The County should consider what changes to make to the program to encourage the retention of units through program improvement.

CONCLUSION:

The Affordable Dwelling Unit (ADU) program has been in existence and operating for more than 15 years under the current structure. Over this time, periodic financial and operational audits have been performed. It is the staff's position that this would be an optimum time to contract out a more comprehensive audit to ensure that the program is realizing its full potential and the County is maximizing appropriate public/private partnerships. This audit is projected to occur in fiscal year 2014.

ATTACHMENTS:

1. Article 7 of the Loudoun County Zoning Ordinance entitled "Administration and Regulation of Affordable Dwelling Unit Developments"
2. Chapter 1450 of the Codified Ordinance entitled "Affordable Dwelling Units"
3. Number of ADUs Sold to Certificate Holders by Year
4. Chronology of Key Board Decisions Related to the ADU Program
5. Current Membership of the Affordable Dwelling Unit Advisory Board
6. Complexes that Accept the ADU Rental Certificate
7. Program Processes
8. ADU Employment by Industry
9. County of Loudoun Housing Trust Summary of Funds
10. County of Loudoun Housing Trust Agreement
11. Relationship of the County of Loudoun Housing Trust to the Housing Funds
12. Market Sales
13. ADU Foreclosures
14. ADU 15 Year Covenant Expirations by Year

ARTICLE 7
ADMINISTRATION AND REGULATION OF AFFORDABLE DWELLING UNIT
DEVELOPMENTS

Section 7-100 Affordable Dwelling Unit Developments.

7-101 Purpose. The Affordable Dwelling Unit Program is established to assist in the provision of housing to persons of moderate income by (a) promoting the development of a full range of housing choices, and (b) requiring the construction and continued existence of dwelling units which are affordable for purchase by households whose income is greater than thirty percent (30%) and less than seventy percent (70%) and affordable for rental by households whose income is greater than thirty percent (30%) and less than fifty percent (50%) of the median income for the Washington Primary Metropolitan Statistical Area (PMSA). "Affordable Dwelling Units" shall be defined as those units for which the rental and/or sales price is regulated pursuant to the provisions contained in this Article, as adopted by the Board of Supervisors. All affordable dwelling units shall comply with the following provisions and the urban residential district regulations for Affordable Dwelling Unit Developments contained in Sections 7-200 through 7-1100 of this Ordinance and Chapter 1450 of the Loudoun County Codified Ordinance.

7-102 Applicability.

(A) The requirements of the Affordable Dwelling Unit Program shall apply to any site, or portion thereof, at one location which is (a) served by public water and sewer, and (b) the subject of an application for rezoning, special exception, site plan or preliminary subdivision which yields, as submitted by the applicant, fifty (50) or more dwelling units at an equivalent density greater than one unit per forty thousand (40,000) square feet.

(1) For the purposes of this Ordinance, "site or portion thereof, at one location" shall include all adjacent undeveloped land of the property owner and/or applicant, under common ownership and/or control of the owner and/or applicant, including, but not limited to, land owned and/or controlled by separate partnerships, land trusts, or corporations in which the owner and/or applicant (to include members of the owner's and/or applicant's immediate family) is an owner of one (1) percent or more of the stock, and other such forms of business entities. Adjacent parcels of undeveloped land owned by separate members of the same family shall be exempt from the provisions of this section when such separate ownership has existed for a period of no less than five (5) years.

(2) Immediate family members shall include the owner's and/or applicant's spouse, children, parents and siblings.

- (3) In instances where a lending institution, such as pension fund, bank, savings and loan, insurance company or similar entity has acquired, or acquires, an equity interest solely by virtue of its agreement to provide financing, such equity interest shall not constitute ownership and shall not be considered in making determinations of applicability. However, the acquisition of a fee interest by such lending institution due to foreclosure or project participation shall be considered as ownership in making determinations of applicability.
- (B) Any request for a Concept Development Plan (CDP) Amendment involving the rezoning of land within a mixed use planned development district, or zoning amendment which requires a rezoning plat, that results in an increase in the total number of residential units shall be subject to this Ordinance. However, application of the provisions of this Article shall be limited to the increase in the total number of residential units, provided that the overall density of the project results in fifty (50) or more units at a density of greater than one (1) unit per acre.
- (C) An owner and/or applicant shall not be exempt from the requirements of this Ordinance by submitting phased applications for rezoning, special exception, site plan or preliminary subdivision for less than fifty (50) dwelling units at any one time. An owner and/or applicant may submit an application for rezoning, special exception, or preliminary subdivision for less than fifty (50) units if the applicant agrees, in writing, that the next application or submission for the subject site, or portion thereof, shall meet the requirements of this Ordinance when the total number of dwelling units in the subject development has reached fifty (50) units or more. This statement shall be included on the approved concept development plan, rezoning plat, special exception, site plan, or preliminary subdivision plat. Such statement shall be recorded among the Loudoun County land records and shall be indexed in the names of all owners of the site, or portion thereof, as such terms are defined above.
- (D) The requirements of this Article shall not apply to the following:
- (1) Any multiple family dwelling unit structure with four (4) stories or more and having an elevator.
 - (2) Special exception, site plan or preliminary subdivision applications filed in accordance with an approved Rezoning which has proffered the provision of affordable dwelling units or other contributions toward the provision of affordable dwelling units prior to the effective date of this Ordinance.
 - (3) Proffer amendment, concept development plan amendment, preliminary subdivision amendment, site plan amendment and special exception amendment applications filed after the effective

date of this Ordinance which deal exclusively with issues of building relocation, site access, stormwater drainage, or other engineering or public facility issues, or the preservation of historic structures, wetlands, child care facilities, or changes in the size of units, a reduction in the number of units, or which request the addition of a non-residential special exception use.

- (4) Properties subject to proffers accepted by the Board of Supervisors, pursuant to Section 15.2-2303 of the Code of Virginia, prior to June 16, 1993.
 - (5) Any request for a Concept Development Plan (CDP) Amendment or zoning amendment which involves the rezoning of land within a mixed use planned development district in order to redistribute existing units to the newly zoned property within the same development, but which does not result in an increase in the total number of residential units.
 - (6) Any request for a rezoning plat amendment or zoning amendment which involves the rezoning of land within a non-planned development district in order to redistribute existing units to the newly zoned property within the same development, but which does not result in an increase in the total number of residential units.
 - (7) Land zoned R-1, CR-1, TR-1, and JLMA-1.
- (E) At the applicant's discretion, the provisions of this Article and individual district regulations for affordable dwelling unit developments may be applied to developments which are exempt from these provisions, as stated in Section 7-102(D). In the event that an applicant proposes to provide affordable dwelling units in a development which is otherwise exempt, the County shall waive any application fee associated with a Concept Development Plan Amendment proposing to change the Concept Development Plan only in order to provide affordable dwelling units. County review of such applications shall not exceed 180 days.

7-103

Affordable Dwelling Unit Density Adjustments.

(A) Single Family Detached and Single Family Attached Units.

- (1) For active rezoning applications that have not yet complied with Section 6-1204(D)(1) of this Ordinance as of December 16, 2003, and for rezoning, special exception, site plan and preliminary subdivision applications officially accepted after December 16, 2003 which request approval of single family detached dwelling units or single family attached dwelling units, the proposed density shall reflect an increase of twenty percent (20%), including the required number of affordable dwelling units,

unless such figure is modified pursuant to the provisions of Section 7-108 or the applicant provides cash in lieu of providing the single family detached units pursuant to Section 7-108(A)(3). In the event such increase exceeds the upper density limit set forth in the Comprehensive Plan, then the upper density limit set forth in the Comprehensive Plan applicable to the subject property shall be increased up to twenty percent (20%) for the purposes of calculating the potential density which may be approved by the Board of Supervisors.

- (2) In the event that a twenty percent (20%) density increase is approved pursuant to Section 7-103(A)(1) above, not less than twelve and one half percent (12.5%) of the total number of dwelling units approved for the subject development shall be affordable dwelling units, for which the rental and/or sales price will be controlled pursuant to this Article.

(B) Multi-Family Units.

- (1) For rezoning, special exception, site plan and preliminary subdivision applications officially accepted after the effective date of this Ordinance which request approval of non-elevator, multi-family dwelling unit structures, the proposed density shall reflect an increase of ten percent (10%), including the required number of affordable units, unless such figure is modified pursuant to the provisions of Section 7-108. In the event such increase exceeds the upper density limit set forth in the Comprehensive Plan, then the upper density limit set forth in the Comprehensive Plan applicable to the subject property shall be increased up to ten percent (10%) for the purposes of calculating the potential density which may be approved by the Board of Supervisors.
- (2) In the event that a ten percent (10%) density increase is approved pursuant to Section 7-103(B)(1) above, not less than six and one-quarter percent (6.25%) of the total number of dwelling units approved for the subject development shall be affordable dwelling units, for which the rental and/or sales price will be controlled pursuant to this Article.
- (3) An applicant may, at his discretion, request approval from the Board of Supervisors, or its designee, of a twenty percent (20%) increase in the density on a subject parcel, provided that at least twelve and one half percent (12.5%) of the total number of units approved are affordable dwelling units, for which the rental and/or sales price is controlled pursuant to the provisions of this Article.

- (C) In the case where affordable dwelling units are provided pursuant to Section 7-102(E) above, the affordable dwelling unit to bonus density increase ratio required by Sections 7-103(A) and (B) does not apply. The density of a development subject to voluntary provision of affordable dwelling units which is otherwise exempt, may be increased up to twenty percent (20%). In the event that a twenty percent (20%) density increase is approved pursuant this Section, not less than twelve and one half percent (12.5%) of the total density bonus units approved for the subject development shall be affordable dwelling units, for which the rental and/or sales price will be controlled pursuant to this Article.

7-104

Designation of Affordable Units on Plats.

- (A) Approved site plans and/or record subdivision plats shall identify the specific number of for-sale units and/or percentage of units for rent which are to be regulated as affordable units pursuant to this Article.
- (1) All plans or plats for developments containing affordable dwelling for-sale units shall identify specific units which are for sale or the percentage of units for rent under the affordable guidelines in this Article.
- (2) All site plans for developments containing affordable dwelling rental units shall include information concerning the number of each type of unit, by bedroom count, which shall be maintained as affordable.
- (B) Specifications regarding dwelling dimensions and the number of bedrooms in all affordable units shall meet the requirements established by the Affordable Dwelling Unit Advisory Board pursuant to the Codified Ordinance. In general, dwelling dimensions and the number of bedrooms in an affordable multi-family unit shall be comparable to equivalent market rate units on the subject parcel.
- (C) Affordable dwelling units shall be of a building type and of an architectural style compatible with residential units permitted within the zoning district in which they are located and interspersed among market rate units in the proposed development.

7-105

Review of site or subdivision plans within 90 days. The County shall process final site plans, preliminary subdivisions or record subdivision plats proposing the development or construction of affordable dwelling units within ninety (90) days from the receipt thereof, provided that such plans and plats substantially comply with all ordinance requirements when submitted. The calculation of the review period shall include only that time the plans or plats are under County review and shall not include such time as may be required for revisions or modifications in order to comply with ordinance requirements.

7-106

Timing of Construction/Availability of Affordable Units. In a development which contains single family detached, single family attached, or multi-family lots or units, occupancy permits for no more than fifty percent (50%) of the market rate dwelling units shall be issued prior to the issuance of occupancy permits for fifty percent (50%) of the affordable dwelling units. Occupancy permits for no more than seventy-five percent (75%) of the market rate dwelling units shall be issued until occupancy permits have been issued for one hundred percent (100%) of the affordable dwelling units for the development.

7-107

Administration and Regulation. The administration and regulation, establishment of unit prices, price controls, eligibility requirements, and the structure and operation of the Affordable Dwelling Unit Advisory Board are governed by the Codified Ordinance of Loudoun County.

7-108

Modifications.

(A) Modifications to the requirements of Sections 7-103 and 7-106 of the Affordable Dwelling Unit Program shall be allowed concurrently with applications for a rezoning, special exception, site plan or preliminary subdivision, upon a finding by the Board of Supervisors, upon recommendation of the Planning Commission, that the proposed alternative will achieve the objective of providing a broad range of housing opportunities throughout Loudoun County. In the event that a modification to Section 7-103 is requested:

- (1) The ratio of affordable units proposed to the total density increase approved shall be no less than 12.5:20% for single family detached and single family attached developments, and 6.25:10% for multi-family unit developments; and
- (2) The total affordable units proposed shall be no less than five percent (5%) of the total number of residential units within the project.
- (3) Notwithstanding paragraphs (1) and (2) above, any request for rezoning, special exception, or preliminary subdivision (by right) which contain only single family detached units, a modification may be requested to provide cash in lieu of the units. Such cash must be paid prior to the first zoning permit. In the event that an applicant requests a modification to make such cash payment, the following criteria shall apply:
 - (a) The cash formula of Section 7-108(E) shall apply.
 - (b) The decision to pay cash in lieu of providing the units has to be made at the time of approval of rezoning, special exception or preliminary subdivision (by right), as applicable.

- (c) No bonus density is to be granted for a development, when an applicant opts to provide cash in lieu of units.
 - (d) The district regulations of Article VII shall not apply to a development when an applicant opts to provide cash in lieu of units.
- (B) In reviewing a request for modification to Section 7-103, consideration shall be given to the following:
 - (1) The number of affordable units, low-cost housing, manufactured housing and other similar type housing that exists, or are to be provided, within two (2) miles of the site and within Loudoun County.
 - (2) Public facilities and services already developed for the overall development capacity to accommodate the maximum density increase permitted for provision of affordable dwelling units.
 - (3) Existing unique, or unusual site constraints including, but not limited to, potential adverse impacts on environmental resources and features on the subject parcel and adjacent parcels, and difficult soil conditions.
 - (4) Unusual costs associated with development of the subject property.
 - (5) Overriding public needs, health issues, public safety issues, or public welfare issues which are better served by not providing the maximum number of affordable units otherwise required.
 - (6) In the case of a request for a Concept Development Plan Amendment, consideration shall also be given to whether the amendment would result in a reduction in the previously approved rezoning's impact on public facilities and whether the existing proffer commitments for the previously approved rezoning exceed current adopted capital facility guidelines established in the County's comprehensive plan.
- (C) In conjunction with Section 7-108(A) above requesting such modifications, the Board of Supervisors may permit an applicant to request a modification to this ordinance so as to allow them to provide any combination of affordable dwelling units, land or contributions to Loudoun County equivalent to providing the required number of affordable dwelling units.
- (D) Requests for modifications to the requirements of the Affordable Dwelling Unit Program, as applied to a given development, shall be submitted in conjunction with the application for rezoning, concept

development plan amendment, proffer amendment, special exception, site plan, or preliminary subdivision, as applicable. The applicant shall provide a justification for such request. The Affordable Dwelling Unit Advisory Board shall review requests for modifications and make its recommendation within sixty (60) days of receipt of a complete application.

- (E) Cash contributions made pursuant to Section 7-108(C) and 7-103(A) shall be calculated according to the following formula:

$$\frac{\text{Construction Price of Prototypical ADU}}{.75} \times .25 \times \# \text{ of ADU lots required} = \text{cash contribution}$$

- (F) All cash, or the value of land contributions made pursuant to Sections 7-103(A) and 7-108(C) shall be calculated in terms of current dollars, adjusted by the CPI, at the time the actual contribution is officially transferred to the County, and paid prior to the issuance of the first zoning permit unless another time is approved by the Board of Supervisors at the time the modification is approved. Funds collected shall be placed in the Loudoun County Housing Trust Fund.
- (G) The time limits set forth in Section 15.2-2259 and 15.2-2260 of the Virginia Code shall be suspended during the pendency of an application filed pursuant to Section 7-108.

7-109

Compliance with State/Federal/Local Laws.

- (A) A development which provides, pursuant to Federal, State or other local programs, the same number or more affordable dwelling units as the number of affordable dwelling units required under Section 7-103 above, subject to terms and restrictions equivalent to the requirements of this Article, shall satisfy the requirements of the Affordable Dwelling Unit Program.
- (B) A development which provides, pursuant to Federal, State, or other local programs, a fewer number of affordable dwelling units than required under Section 7-103 above, subject to terms and restrictions equivalent to the requirements of this Article, shall provide the additional number of affordable dwelling units necessary to make up the shortage.
- (C) The rents and sales prices for affordable dwelling units provided pursuant to Federal, State, or other local programs shall be in accordance with the rules and regulations governing such programs and these units shall be marketed in accordance with such rules and regulations, provided rents and sale prices shall not exceed those set pursuant to this Article.

7-110

Violations and Penalties. In addition to the provisions set forth in Section 6-500, the following shall apply whenever any person, whether owner, lessee, principal, agent, employee or otherwise, violates any provision of this Article, or permits any such violation, or fails to comply with any of the requirements hereof:

- (A) Owners of affordable dwelling units who shall fail to submit executed affidavits or certifications, as required by this Article, shall be fined fifty (50) dollars per day per unit, up to a maximum of three thousand (3000) dollars per unit, until such affidavit or certificate is filed, but only after written notice and a ten-day compliance period is provided. Fines levied pursuant to this paragraph shall become liens upon the real property and shall accumulate interest at the judgment rate of interest.
- (B) Tenants of affordable dwelling units who shall fail to submit executed affidavits or certifications, as required by this Article, shall be subject to lease termination and eviction procedures, as provided in the Codified Ordinance.
- (C) Owners and tenants of affordable dwelling units who shall falsely swear or who shall execute an affidavit or certification required by this Article knowing the statements contained therein to be false shall be guilty of a Class II misdemeanor and shall be subject to a fine up to one thousand (1000) dollars.
 - (1) Fines levied against owners pursuant to this paragraph shall become liens upon the real property and shall accumulate interest at the judgment rate of interest.
 - (2) Tenants of affordable dwelling units who shall falsely swear or who shall execute an affidavit or certification required by this Article knowing the statements contained therein to be false shall also be subject to lease termination and eviction procedures, as provided in the Codified Ordinance.
 - (3) Owners of individual affordable dwelling units who shall falsely swear that they continue to occupy their respective affordable dwelling unit as their primary domicile shall be subject to injunction or other suit, action or proceeding to require such owner to either sell the unit to someone who meets the eligibility requirements established pursuant to this Article or to occupy such affordable dwelling unit as a domicile.

7-111

Enforcement and Court Appeals.

- (A) The Zoning Administrator shall administer and enforce the provisions of the Affordable Dwelling Unit Program.

- (B) Notwithstanding the provisions of Section 15.2-2311 of the Virginia Code, any person aggrieved by a decision of the Zoning Administrator or by the Affordable Dwelling Unit Advisory Board, in the case of a decision made by the latter regarding an appeal of affordable dwelling unit for-sale or rental prices, or by any decision made by an administrative officer in the administration or enforcement of the Affordable Dwelling Unit Program, may appeal such decision to the Loudoun County Board of Zoning Appeals by filing a petition of appeal which specifies the grounds upon which aggrieved within thirty (30) days from the date of the decision.
- (C) Any petition of appeal properly filed pursuant to Paragraph B above shall not constitute a de novo proceeding and shall be considered by the Circuit Court in a manner similar to petitions filed pursuant to Section 15.2-2314 of the Virginia Code.

CHAPTER 1450 Affordable Dwelling Units

EDITOR'S NOTE: This chapter, previously a codification of Ordinance 95-09, passed October 4, 1995, was repealed in its entirety and re-enacted by Ordinance 99-07, passed June 16, 1999.

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| 1450.01 Purpose of Affordable Dwelling Unit Program. | 1450.06 Sales prices. |
| 1450.02 Definitions. | 1450.07 Rental prices. |
| 1450.03 Administration of program; Affordable Dwelling Unit Advisory Board. | 1450.08 Prices following initial sale or rental. |
| 1450.04 Sales of units; purchase option periods; priority for purchase. | 1450.09 Eligibility requirements; authority of Office of Housing Services; penalty. |
| 1450.05 Rental of units. | 1450.10 Affordable Dwelling Unit Advisory Board. |

CROSS REFERENCES

Loudoun County Board of Supervisors - see ADM. Ch. 210

License tax for rental of dwellings - see B.R. & T. 840.22

Virginia Uniform Statewide Building Code - see B. & H. Ch. 1410

1450.01 PURPOSE OF AFFORDABLE DWELLING UNIT PROGRAM.

The Affordable Dwelling Unit Program is established to assist in the provision of housing to persons of moderate income by promoting the development of a full range of housing choices and by requiring the construction and continued existence of dwelling units which are affordable for purchase by households whose income is greater than thirty percent and less than seventy percent, and affordable for rental by households whose income is greater than thirty percent and less than fifty percent, of the median income for the Washington Primary Metropolitan Statistical Area (PMSA). "Affordable dwelling units" shall be defined as those units for which the rental and/or sale price is regulated, as well as existing homes purchased through the use of Downpayment/Closing Cost Assistance Funds of Loudoun County Housing Trust, pursuant to the provisions contained in this chapter, as adopted by the Loudoun County Board of Supervisors. This chapter is for the administration of the Loudoun County Affordable Dwelling Unit Program. The regulations for such program are set forth in Article VII of the Loudoun County Zoning Ordinance. (Ord. 99-07. Passed 6-16-99.)

(Due to revision of the preceding chapters, the next page of text is page 29)

1450.02 DEFINITIONS.

(a) The terms used herein shall have the same meaning ascribed to them in the Loudoun County Zoning Ordinance.

(b) As used in this chapter, "qualified nonprofit" means a nonprofit corporation whose purpose is to further the provision of affordable housing in Loudoun County, which has Internal Revenue Code 501(C)(3) status, adequate cash flow/reserves to purchase property, expertise in property management, and is designated by the Loudoun County Board of Supervisors.

(Ord. 99-07. Passed 6-16-99.)

1450.03 ADMINISTRATION OF PROGRAM; AFFORDABLE DWELLING UNIT ADVISORY BOARD.

(a) The sale and rental of affordable dwelling units shall be regulated by the Loudoun County Board of Supervisors or by its designee. The Loudoun County Board of Supervisors shall appoint an Affordable Dwelling Unit Advisory Board (ADUAB) which shall develop and approve general specifications for prototypical single-family detached, single-family attached and multifamily affordable dwelling units, shall determine the construction costs of the prototypical units on a semi-annual basis, as determined from generally accepted construction cost indices, and shall perform those other duties established in Section 1450.10. Semi-annual for-sale prices, annual income eligibility and rental price revisions and forms will be approved by the ADUAB. Individuals aggrieved by the ADUAB decisions may appeal such decisions within thirty days to the Loudoun County Board of Supervisors.

(b) In the administration of the Affordable Dwelling Unit Program, the design and construction specifications shall be revised and approved when necessary by the ADUAB and be structured so that affordable dwelling units offered for sale shall be affordable to households whose income exceeds thirty percent, but does not exceed either sixty-five percent of median household income for multifamily units or seventy percent of median household income for single-family attached and single-family detached units. Affordable dwelling units offered for rent shall be affordable to households whose income exceeds thirty percent, but does not exceed fifty percent, of the median household income. Median household income shall be as determined for the Washington Primary Metropolitan Statistical Area (PMSA) as established by the Bureau of the Census.

(Ord. 99-07. Passed 6-16-99.)

1450.04 SALES OF UNITS; PURCHASE OPTION PERIODS; PRIORITY FOR PURCHASE.

(a) The sale of affordable dwelling units shall be regulated by the Loudoun County Board of Supervisors or its designee. The Loudoun County Board of Supervisors shall, upon the recommendation of the Affordable Dwelling Unit Advisory Board (ADUAB) adopt reasonable rules and procedures to assist in the regulation and monitoring of the sale and resale of affordable dwelling units, which shall include giving priority to Loudoun County residents and persons who work in the County.

(b) The Loudoun County Board of Supervisors, or its designee, which may include qualified nonprofits, shall have the right of first refusal on a project-by-project basis to purchase up to one-third of the for-sale affordable dwelling units within a development for a ninety-day purchase option period. The following requirements apply to such period:

(1) The ninety-day purchase option period shall begin on the date of receipt of written notification from the owner, sent by registered or certified mail, advising the County, or its designee, that particular affordable dwelling units are, or will be, available for purchase.

(2) Such written notice may be sent by the owner at any time after the issuance of a zoning permit for the affordable dwelling unit which is being offered for sale.

(3) The written notice shall state the following information:

- A. The number of bedrooms;
- B. Floor area (in square feet);
- C. Amenities;
- D. The target date for affordable dwelling unit availability;
- E. The number of affordable dwelling units available and their location within the development;
- F. The address of each affordable dwelling unit, which shall include the tax map and parcel number or Property Identification Number;
- G. Any type of special financing which may be available; and
- H. A copy of the approved subdivision and final site plan for the development in which the affordable dwelling units are located.

(4) If the County or its designee elects to purchase a particular affordable dwelling unit, the County or its designee shall so notify the owner, in writing, within the ninety-day purchase option period. Failure to so notify the owner shall be deemed a refusal of purchase of the affordable dwelling unit.

(5) The closing shall occur within thirty days from the end of the respective ninety-day period, provided an occupancy permit has been issued for the affordable dwelling unit, or thirty days after the issuance of an occupancy permit, whichever is later.

(c) The remaining two-thirds of the for-sale affordable dwelling units within a development shall be offered for sale exclusively for a ninety-day purchase option period to persons who meet the income eligibility criteria established by the County or its designee and who have been issued a Certificate of Qualification by the Loudoun County Office of Housing Services.

(1) The ninety-day purchase option period shall begin on the date the County or its designee receives written notification from the owner, sent by registered or certified mail, advising the County or its designee that a particular affordable dwelling unit is or will be available for purchase.

(2) Such written notice may be sent by the owner at any time after the issuance of a zoning permit for the affordable dwelling unit.

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- (3) Such written notice shall state the following information:
- A. The number of bedrooms;
 - B. Floor area (in square feet);
 - C. Amenities;
 - D. The target date for affordable dwelling unit availability;
 - E. The number of affordable dwelling units available and their location within the development;
 - F. The address of each affordable dwelling unit, which shall include the tax map and parcel number;
 - G. Any type of special financing which may be available; and
 - H. A copy of the approved subdivision and final site plan for the development in which the affordable dwelling units are located.

(d) After the expiration of the ninety-day purchase option period referenced in subsections (b) and (c) hereof, affordable dwelling units not sold, or not under contract to be sold, shall be offered for sale to County qualified and designated nonprofits.

(1) The qualified nonprofits shall have a thirty-day purchase option period within which to commit to purchase the affordable dwelling units. This thirty-day period shall begin at the expiration of the ninety-day purchase option period explained in subsections (b) and (c) hereof, and on the date of receipt of written notification from the owner, sent by registered or certified mail, advising that particular affordable dwelling units are or will be available for purchase.

- (2) The written notice shall include the following information:
- A. The number of bedrooms;
 - B. Floor area (in square feet);
 - C. Amenities;
 - D. The target date for affordable dwelling unit availability;
 - E. The number of affordable dwelling units and their location within the development;
 - F. The address of each affordable dwelling unit, which shall include the tax map and parcel number;
 - G. Any type of special financing available; and
 - H. A copy of the approved subdivision and final site plan for the development in which the affordable dwelling units are located.

(3) Such written notice may be sent by the owner any time after the expiration of the ninety-day purchase option period referenced in subsections (b) and (c) hereof. If a qualified nonprofit elects to purchase a particular affordable dwelling unit, it shall so notify the owner in writing.

(e) After the expiration of the time period(s) referenced in subsections (b), (c) and (d) hereof, affordable dwelling units which are not sold can be sold as market rate units by the builder, provided that the difference between the actual sales price and the ADU Program sales price shall be divided equally between the seller and the County of Loudoun Housing Trust.

(Ord. 99-07. Passed 6-16-99.)

1450.05 RENTAL OF UNITS.

(a) The rental of affordable dwelling units shall be regulated by the Loudoun County Board of Supervisors or its designee. The Loudoun County Board of Supervisors shall, upon recommendation of the Affordable Dwelling Unit Advisory Board (ADUAB), adopt reasonable rules and procedures to assist in the regulation and monitoring of the rental of affordable dwelling units, which shall include giving priority to Loudoun County residents and to persons who work in the County.

(b) For the initial rental of affordable dwelling units within a single-family detached, a single-family attached or a multifamily dwelling unit development, written notification from the owner shall be sent by registered or certified mail advising the County or its designee that particular affordable dwelling units are or will be available to rent.

(1) Such written notice may be sent by the owner at any time after the issuance of a zoning permit for the affordable dwelling unit which is being offered for rent.

(2) The written notice shall include the following information:

- A. The number of bedrooms;
- B. Floor area (in square feet);
- C. Amenities;
- D. The target date for affordable dwelling unit availability;
- E. The number of affordable dwelling units available and their location within the development;
- F. The addresses of the affordable dwelling units, which shall include the tax map and parcel number of the development; and
- G. A copy of the approved site plan or record plat for the development in which the affordable dwelling units are located.

(c) All affordable dwelling units available for rent shall be leased for a minimum six month period, with a maximum term of lease of twelve months, to tenants who meet the income eligibility criteria established by the County or its designee and who have been issued a Certificate of Qualification by Loudoun County Housing Services. Following the initial lease term, subsequent leases may be done on an annual, bi-annual or monthly basis.

(1) The lease agreements for such units shall include conditions which require the tenant to occupy the unit as his or her domicile, which prohibit the subleasing of the unit, which require continued compliance with the income eligibility criteria established by the County or its designee and which require the tenant to annually verify his or her annual income and such other facts that the owner/landlord may require in order to ensure that the tenant continues to meet the income eligibility criteria established by the County or its designee.

(2) Tenants shall continue to meet the income eligibility criteria established by the County, or its designee, in order to continue to occupy the affordable dwelling unit. Tenants who no longer meet the income eligibility criteria may continue to occupy an affordable dwelling unit until the end of the lease term.

(3) Income eligibility of tenants of rental affordable dwelling units shall be verified prior to lease renewal.

(4) The owner/landlord of a development containing rental affordable dwelling units shall provide the County or its designee with information regarding the occupancy of rental affordable dwelling units on a quarterly basis, at a minimum. Such information shall consist of a statement, verified under oath, which certifies the following as of the first of such month:

A. The address and name of the development and the name of the owner/landlord;

B. The number of rental affordable dwelling units, by bedroom count, which are vacant;

C. The number of rental affordable dwelling units, by bedroom count, which are leased. For each such unit, the statement shall contain the following information:

1. The unit address and bedroom count;
2. The tenant's name and household size;
3. The effective date of the lease;
4. The tenant's (household) income as of the date

of the lease;

5. The current monthly rent.

D. A statement that to the best of the owner/landlord's information and belief, the tenants who lease and occupy rental affordable dwelling units meet the income eligibility criteria established by the County, or its designee, except those tenants eligible to remain in their rental affordable dwelling units, as specified in Section 1450.09.

(5) The owner/landlord shall provide the County or its designee with a copy of each new or revised annual tenant income verification obtained from the tenants of rental affordable dwelling units pursuant to paragraph (c)(4)D. hereof.

(Ord. 99-07. Passed 6-16-99.)

1450.06 SALES PRICES.

(a) The Affordable Dwelling Unit Advisory Board (ADUAB) shall initially and semiannually thereafter establish the County-wide sales prices for affordable dwelling units. Adjustments to the affordable dwelling unit sales prices shall:

- (1) Account for fluctuations in the market; and
- (2) Be adjusted according to the percentage change in the various cost elements as indicated by the Means Construction Cost Index, or other equivalent index should the Means Index be discontinued, or as may be selected by the ADUAB upon approval of the Loudoun County Board of Supervisors.

(b) County-wide sales prices shall be based upon a determination of all ordinary, necessary and reasonable hard and soft costs required to construct and market the affordable dwelling units by private industry in the immediate area, including the area's current general market and economic conditions.

(1) Sales prices shall include, among other costs, provisions for builder-paid permanent mortgage placement costs, closing costs, except for pre-paid expenses at settlement, and other applicable costs resulting from proffers given and accepted through a rezoning approval.

(2) Sales prices shall not include the cost of land, marketing expenses and extra finishes and amenities exceeding ten percent of the total unit construction cost, including landscaping, unless otherwise approved by the Affordable Dwelling Unit Advisory Board.

(3) A 1.5 percent sales commission/finders fee to be paid to a real estate agent who secures a purchaser of an affordable dwelling unit.

(4) In the event that the developer or builder is responsible for conducting a lottery and qualifying potential purchasers for affordable units within a development, such sales prices shall include a flat fee to cover such costs, to be determined by the Affordable Dwelling Unit Advisory Board.

(c) The sales prices of affordable dwelling units within a development shall be established such that the owner shall not suffer economic loss as a result of providing the required affordable dwelling units. Economic loss shall result when the owner of a development fails to recoup the cost of construction, including site development and infrastructure costs, and those allowances as may be determined by the Affordable Dwelling Unit Advisory Board upon the sale of an affordable dwelling unit, exclusive of the cost of land acquisition and those costs voluntarily incurred.
(Ord. 99-07. Passed 6-16-99.)

1450.07 RENTAL PRICES.

(a) The Affordable Dwelling Unit Advisory Board (ADUAB) shall initially and semiannually thereafter establish County-wide rental affordable dwelling unit prices which will take into account the geographical location of the units within the County and the age and condition of the development, as appropriate. Adjustments to the affordable dwelling unit rental prices shall be made according to the change in the Washington Primary Metropolitan Statistical Area (PMSA) median income as published by the Department of Housing and Urban Development and/or such other indices that reflect the cost of rental housing in Loudoun County as selected by the ADUAB.

(b) County-wide rental prices shall be based upon a determination of all ordinary, necessary and reasonable costs required to construct and market the required number of rental affordable dwelling units by private industry in the area, including the area's current general market and economic conditions. The process for establishing rental prices will be determined by the ADUAB. The ADUAB will determine and recommend those costs to be included within the rental price of a rental affordable dwelling unit and those costs to be excluded from the rental price of a rental affordable dwelling unit. In establishing rental prices, consideration shall be given to reasonable and customary allowances in the rental industry for construction, financing and operating costs per unit.

(c) Rental prices for affordable dwelling units shall be established such that the owner/landlord shall not suffer economic loss as a result of providing rental affordable dwelling units. (Ord. 99-07. Passed 6-16-99.)

1450.08 PRICES FOLLOWING INITIAL SALE OR RENTAL.**(a) For-Sale Affordable Dwelling Units.**

- (1) The prices for subsequent resales of for-sale affordable dwelling units shall be controlled for a period of fifteen years after the initial sale transaction for the respective affordable dwelling unit. At the time of the initial sale of an individual affordable dwelling unit, the owner shall provide in the sales contract and shall record, with the deed for each affordable unit sold, a covenant running with the land in favor of the County which expressly provides all of the following:
 - A. The affordable dwelling unit may not be resold during the fifteen-year control period for an amount that exceeds the limits set by the Affordable Dwelling Unit Advisory Board (ADUAB) pursuant to paragraph (a)(3) hereof.
 - B. Each time the unit may be offered for resale, it must first be offered exclusively through the County or its designee to persons who meet the income eligibility criteria established by the County and who have been issued a Certificate of Qualification by the Loudoun County Office of Housing Services for a sixty-day period, with an additional thirty days allowed for settlement, pursuant to paragraph (a)(2) hereof.
 - C. The unit is subject to the provisions of the Affordable Dwelling Unit Program, as set forth in the Loudoun County Zoning Ordinance.
 - D. The covenant shall be senior to all instruments securing permanent financing and shall be binding upon all assignees, mortgagees, purchasers and other successors in interest.
 - E. The covenant shall state that any and all financing documents shall require the lender to provide to the County or its designee written notice of any delinquency or other event of default under a mortgage. The County or its designee shall have the right for a sixty-day period to cure such a default, although the County shall have no obligation to cure the default.
 - F. The total aggregate amount of principal and accrued interest for all financing secured by an ADU shall not exceed the owner's purchase price (as adjusted in accord with Section 1450.08(a)(3), as amended). Any financing in excess of the owner's purchase price (as adjusted in accord with Section 1450.08(a)(3), as amended) shall not be secured by any interest in the applicable ADU.
- (2) For the first sixty days that individual affordable dwelling units are offered for resale, the units shall first be offered exclusively through the County or its designee to persons who meet the income eligibility criteria established by the County and who have been issued a Certificate of Qualification by Loudoun County Housing Services. The sixty-day resale period shall begin upon County receipt of written notice, sent by registered or certified mail, from the owner that an affordable dwelling unit is available for resale. The written notice shall include the address of the affordable dwelling unit and shall include the tax map and parcel number or Property Identification Number.

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- A. If, during the sixty-day period, no one holding a Certificate of Qualification has committed to purchase the affordable dwelling unit offered for resale, then the County or its designee shall have the option, for the next thirty days, to acquire the unit, with an additional thirty-day period allowed for settlement if the option is exercised.
 - B. Upon the expiration of the ninety-day period, the unit may be offered for sale to members of the general public at fair market value, provided that the difference between the actual sales price and that price allowed under the provisions of paragraph (a)(3) hereof shall be divided equally between the seller and the County of Loudoun Housing Trust.
- (3) Units offered for sale during the fifteen-year control period shall not be offered for a price greater than the original selling price plus the following:
- A. A percentage of the unit's original selling price equal to the increase in the Consumer Price Index-For All Urban Consumers;
 - B. The current fair market value of those home improvements, as determined to be eligible to be added to the selling price by the ADUAB, made to the unit between the date of original sale and the date of resale;
 - C. An allowance for payment of closing costs, on behalf of the subsequent purchaser which shall be paid by the seller; and
 - D. An allowance for the payment of a 1.5 percent sales commission/finders fee that is paid to a real estate agent who secures a purchaser of an affordable dwelling unit.
- (4) After the expiration of the fifteen-year control period, but prior to the expiration of fifty years after initial sale of the unit, the owner of an affordable dwelling unit may offer the unit for sale at fair market value, provided that the difference between the actual sale price and that price allowed for under the provisions of paragraph (a)(3) hereof shall be divided equally between the seller and the County of Loudoun Housing Trust Fund.
- (5) After the expiration of the fifteen-year control period, the County or its designee shall have a first right of refusal to acquire, at fair market value, each individual affordable dwelling unit. The current owner of each such unit shall provide the County or its designee with written notification sent, by registered or certified mail, that the unit is for sale. If the County or its designee elects to purchase such unit, the County or its designee shall so notify the owner in writing within thirty days of receipt of the written notification from the owner, and the all-cash closing shall occur within sixty days thereafter.
- (6) Any and all financing documents shall provide that, in the event of default and foreclosure of projects with units subject to the requirements of this chapter that are comprised of for-sale affordable dwelling units, the lender shall give written notice to the County or its designee of the foreclosure sale at least thirty days prior thereto, and the County or its designee shall have the right to cure the default, but shall have no duty or obligation to do so.

(b) Rental Affordable Dwelling Units.

(1) The prices for subsequent re-rentals shall be controlled for a period of twenty years after the initial rental transaction for the respective rental affordable dwelling unit. Prior to approval of a record plat for single family dwelling lots containing affordable dwelling units or construction plans and profiles for single-family attached lots containing affordable dwelling units or site plans for multifamily buildings containing affordable dwelling units, the owner shall record a covenant, running with the land, in favor of the County or its designee which covenant provides that for twenty years from the date of the issuance of the first occupancy permit for the rental affordable dwelling units required under this chapter, which date shall be specified in the covenant:

A. No such unit may be rented for an amount which exceeds the limits set by the ADUAB, pursuant to Section 1450.07.

B. Each time one of the rental affordable dwelling units is offered for re-rental, it must be offered exclusively through the County or its designee to persons who meet the income eligibility criteria established by the County and who have been issued a Certificate of Qualification by Loudoun County Housing Services, pursuant to this section.

C. The unit is subject to the provisions of the Affordable Dwelling Unit Program, as set forth in the Loudoun County Zoning Ordinance.

D. The covenant shall be binding upon all assignees, mortgagees, purchasers and other successors in interest.

(2) Rentals subsequent to the initial rental during the twenty-year control period shall not exceed the rental rate established by the ADUAB.

(3) Any and all financing documents shall provide that, in the event of default and foreclosure of projects and units subject to the requirements of this chapter that are comprised of rental affordable dwelling units, the lender shall give written notice to the County or its designee of the foreclosure sale at least thirty (30) days prior thereto. The County or its designee shall have the right to cure the default, but shall have no duty or obligation to do so.

(4) Notwithstanding the above, for multifamily dwelling re-rentals, all of the relevant provisions of this chapter shall apply for the twenty-year control period. (Ord. 99-07. Passed 6-16-99.)

1450.09 ELIGIBILITY REQUIREMENTS; AUTHORITY OF OFFICE OF HOUSING SERVICES; PENALTY.

(a) Before an individual may purchase an affordable dwelling unit, he or she must obtain a Certificate of Qualification from Loudoun County Housing Services. Before issuing a Certificate of Qualification, Loudoun County Housing Services shall determine that the applicant meets the income eligibility criteria established by the County or its designee for affordable income ranges, pursuant to Section 1450.03.

(b) Before an individual may lease a rental affordable dwelling unit, he or she must meet the income eligibility criteria established by the Affordable Dwelling Unit Advisory Board (ADUAB) for affordable income ranges, pursuant to Section 1450.03, and must receive a Certificate of Qualification from Loudoun County Housing Services. The owner/landlord shall be responsible for verifying that a tenant meets and continues to meet the income eligibility criteria.

(c) Except in cases where a purchaser or tenant is transferred because of U.S. military or foreign service temporary tours of duty, hardship tours, or in time of war, purchasers or tenants of affordable dwelling units must occupy the units as their primary domicile and must provide an executed affidavit on an annual basis certifying their continuing occupancy of the units. Owners of for-sale affordable dwelling units shall forward such affidavits to the County or its designee on or before June 1 of each year that they own the unit. Leases for rental affordable dwelling units shall contain a provision requiring tenants to provide such affidavits to the owner/landlord sixty days prior to the expiration of the lease. Units purchased by the County, or its designated nonprofit, pursuant to Section 1450.04(b) and (d), shall remain as for-sale units and shall be owner occupied.

(1) Except for circumstances referenced in subsection (e) hereof, it shall be a civil violation of this chapter for someone to sell an affordable dwelling unit to an individual who has not been issued a Certificate of Qualification by Loudoun County Housing Services, subject to a civil penalty, pursuant to Section 6-500 of the Loudoun County Zoning Ordinance.

(2) Except as provided for in subsection (e) below, it shall be a civil violation of this chapter for someone to rent, or continue to rent, an affordable dwelling rental unit to an individual who has not been issued a Certificate of Qualification by Loudoun County Housing Services.

(3) The legal recourse for the County for a violation of paragraph (c)(2) hereof shall be a civil penalty against the owner/landlord, pursuant to Section 6-500 of the Loudoun County Zoning Ordinance.

(4) In the event the tenant of a rental affordable dwelling unit fails to provide his or her owner/landlord with an executed affidavit, as required in this subsection, within thirty days of a written request for such affidavit, then the lease shall automatically terminate and become null and void, and the occupant must vacate the unit within thirty days of written notice to terminate from the owner/landlord.

(d) In the event a tenant of a rental affordable dwelling unit no longer meets the income eligibility criteria established by the County or its designee as a result of increased income or any other factor, then the tenant must vacate the unit at the end of the lease term.

(e) In the event that a tenant or owner of an affordable unit has not been issued a Certificate of Qualification within sixty days of County acceptance of an executed affidavit, for review for compliance with the eligibility criteria for a Certificate of Qualification, due to an error on the County's part, then paragraphs (c)(1) and (2) hereof shall not apply.

(f) Notwithstanding the provisions of paragraph (c)(4) and subsection (d) hereof, if the owner/landlord shall immediately designate an alternative comparable unit as a rental affordable dwelling unit to be leased under the controlled rental price and requirements of this chapter, then the tenant of such unit referenced in paragraph (c)(4) and subsection (d) hereof may continue to lease such unit at the fair market rent.
(Ord. 99-07. Passed 6-16-99.)

1450.10 AFFORDABLE DWELLING UNIT ADVISORY BOARD.

(a) The Affordable Dwelling Unit Advisory Board (ADUAB) shall consist of nine members appointed by the Board of Supervisors. Members shall be qualified as follows:

(1) Two members shall be either civil engineers and/or land surveyors and/or architects, each of whom shall be registered or certified with the relevant agency of the Commonwealth, or planners, all of whom shall have extensive experience in practice in Loudoun County.

(2) One member shall be a representative of a lending institution which finances residential development in Loudoun County.

(3) Four members shall consist of:

A. A representative from the Board of Supervisors or its designee;
B. A residential builder or developer with extensive experience in producing single-family detached and attached dwelling units;

C. A residential builder or developer with extensive experience in producing multifamily dwelling units;

D. A representative from the Loudoun County Department of Planning.

(4) One member shall be a representative of a qualified nonprofit housing group which provides services in Loudoun County, if one exists.

(5) One member shall be a real estate agent.

(6) One member shall be a program participant.

(7) One member shall be a member of the public at-large who does not qualify to fill one of the membership positions contained in paragraphs (a)(1) to (4) hereof.

(8) Of the above described membership, at least five members shall be citizens of Loudoun County and at least four members shall be employed in the private sector.

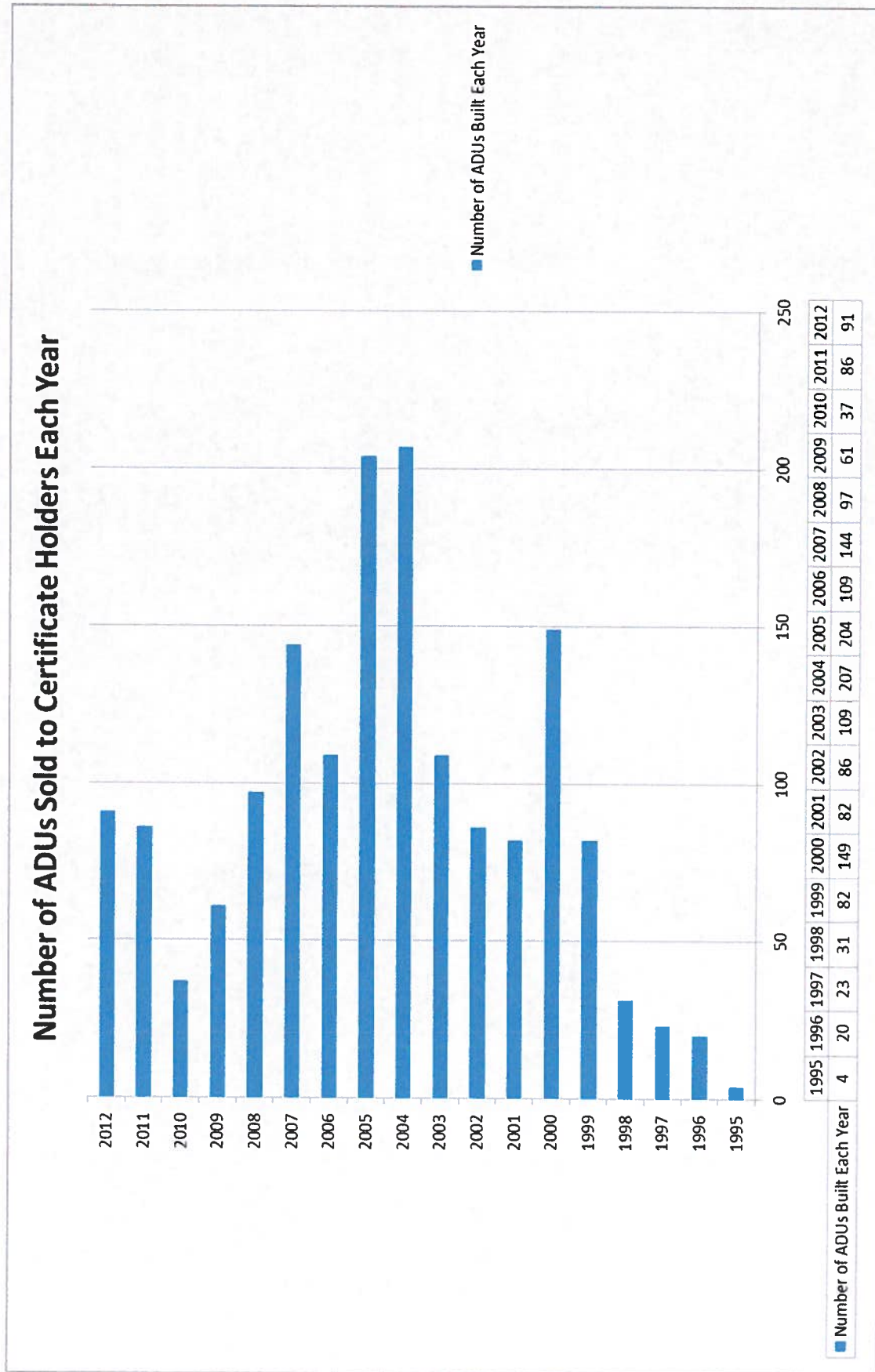
(b) Each member of the ADUAB shall be appointed to serve a four-year term. Terms shall be staggered such that the initially-constituted Affordable Dwelling Unit Advisory Board shall consist of three members appointed to four-year terms, three members appointed to three-year terms and three members appointed to two-year terms.

(c) The ADUAB shall elect its Chairperson and Vice Chairperson for a term of one year. The Board may adopt rules and procedures for the formulation of a recommendation regarding the amounts and terms of sale and rental prices of affordable dwelling units, the procedures to be followed by an applicant seeking a modification of the requirements of the Affordable Dwelling Unit Program, the criteria for qualifying a nonprofit, guidelines for establishing cash equivalent contributions for modifications of the Affordable Dwelling Unit Program, and fees to be included in sales prices for developer costs to conduct a lottery and to qualify potential purchasers of affordable dwelling units.

(d) The ADUAB shall establish the amount and terms of all sales and rental prices of affordable units. The ADUAB may appoint a subcommittee of local builders and construction experts to assist it in recommending the costs of the prototypical single-family detached, single-family attached and multifamily affordable units.

(e) The ADUAB shall be authorized to hear and make recommendations on requests for modifications of the requirements of the Affordable Dwelling Unit Program, as set forth in Article VII of the Loudoun County Zoning Ordinance. The ADUAB shall not have the authority to hear requests for modifications of affordable dwelling unit sales or rental prices, or unit specifications established by the County or its designee.

(f) Any recommendation by the ADUAB shall require the affirmative vote of a majority of those members present. A quorum must be present in order for the ADUAB to make a recommendation. A quorum shall consist of no less than five members.
(Ord. 99-07. Passed 6-16-99.)



CHRONOLOGY OF KEY BOARD DECISIONS RELATED TO THE AFFORDABLE DWELLING UNIT (ADU) PROGRAM

Date:	Title and Description of Action:
06-16-1993	Board of Supervisors: Zoning Ordinance Text and District Maps/Adoption. Adoption of Article 7, Administration and Regulation of Affordable Dwelling Unit Developments, of the County Zoning Ordinance.
02-01-1995	Board of Supervisors: Finance Committee Report/Affordable Housing Down Payment/Closing Cost ADUAB Program design—Cash Contributions/Proffers. 1) Staff to complete development of Loudoun Housing Trust 2) Approve Down Payment/Closing Costs Program Design and use of funds and dedicate \$213,061 Chatham Green proffer funds for the program while reserving \$30,000 for affordable housing needs analysis.
10-04-1995	Board Of Supervisors: Policy Legislative Committee Report/Amendment to Codified Ordinances of Loudoun County/New Chapter 1450/Administration of Affordable Dwelling Units. Adoption of amendments to the Codified Ordinances of Loudoun County by adding Chapter 1450 to administer the ADUs.
03-05-1997	Board of Supervisors: Finance Committee Report/ Loudoun Homebuyers Opportunity Downpayment/Closing Cost Assistance Program revisions. Revisions to program to include split of program funds to assist 30-50% AMI to purchase existing housing and new construction under the ADU program of 30-70% AMI.
08-13-1997	Board of Supervisors: Approval of the County of Loudoun Housing Trust Agreement.
06-16-1999	Board Of Supervisors: Affordable Dwelling Unit/Amendments to Chapter 1450/ Loudoun County Codified Ordinance and Semi-Annual For-Sale Price Revisions. Adoption of recommended revisions to Chapter 1450 including the purchase of homes as ADUs, qualified non-profit, pricing approved by ADUAB, funds divided between County and builder when sold at market rate, lease terms after initial lease period expires, 1.5% sales commission, the use of Washington Primary Metropolitan Statistical Area Median Income, Resale price split between County and

seller, adding two members to ADUAB including a real estate agent and program participant.

- 07-10-2000 **Board of Supervisors: Land Use Committee Report/ZOAM 2000-0002 Article VII Affordable Dwelling Units.** Adoption of amendments to Article VII changing density bonus to 10%/6.25 ADUs, buy-out provision for 100% single family detached and cash formula. Cash contribution paid prior to issuance of the first zoning permit or another BOS designated time.
- 05-07-2001 **Board of Supervisors: Finance/Government services Committee Report – Use of Proffer Funds for Housing Services Down Payment Closing Cost Program.** Proffer monies from Rock Hill Estates, River Creek, Chatham green, and Belmont to be used for Down Payment Closing Cost Program with transfer of \$411,482 plus interest.
- 07-02-2001 **Board of Supervisors: Affordable Dwelling Unit Program– Status report.** Information item which includes a Housing Assessment for Loudoun County dated July 2000. Recommendation from study is to reconsider density bonus lowering the ADUs by half, provide ADUs near jobs, monitor buyout provision, mandate first time buyers education, ADU should be taxed at ADU price, and various other reduction of fees.
- 06-02-2003 **Board of Supervisors: Finance/Government Services Committee Report Alexan Ryan’s Corner/Proposed Conversion to ADU For-Sale Condominiums.** Approval of conversion of 42 rental units to For-Sale ADUs.
- 03-01-2005 **Board of Supervisors: Human Services Committee Report: Summerfield at Brambleton- Proposed Conversion to ADU For Sale Condominiums.** Approval of “Summerfield at Brambleton” conversion of 66 rental units to For-Sale ADUs.
- 04-05-2005 **Board of Supervisors: Human Services Committee Report/Workforce Housing and Affordable Dwelling Units Issue. Changes to the ADU Program:** 1) Allow sale price increase for essential options for health and safety up to a maximum increase of 2% to the price. 2) Waitlist Preference Category a) live& work in Loudoun b) live In Loudoun c) work in Loudoun d) neither live nor work in Loudoun 3) elimination of household size and unit size match 4) elimination of the lottery system for For-Sale and convert to a waitlist on a first come first served by

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priority stated above. Changes to Down Payment Closing Cost Program:
1) Tiered loan program 2) Increase investment to \$1,000 3) allow subordinations 4) Mandate homebuyer education class through VHDA 5) increase processing fee to \$200.

- 03-20-2007 **Board of Supervisors: Dominion Station determine compensation and release of covenants and action to prevent foreclosure.** Directed staff to work with property owner to buy foreclosure and resell to ADU eligible client. Use of County of Loudoun Housing Trust authorized for purchase.
- 09-04-2007 **Board of Supervisors: Human Services Committee Report/Title Searches on Affordable Dwelling Unit Properties.** Information item on title search of all ADUs in reference to the possible over-financing of the units, covenant language change in 2005, tax assessment page to highlight ADUs, letters sent to all ADU owners, notice at time of settlement, letters sent to lenders, and letters sent to appraisers.
- 09-18-2007 **Board of Supervisors: Loudoun Parkway Center Affordable Dwelling Unit Foreclosure.** Staff directed to work with the owner and purchase unit to keep as an ADU.
- 06-03-2008 **Board of Supervisors: Approval of a memorandum of Agreement to Support an Affordable Dwelling Unit Ordinance in the Town of Leesburg.** Directed staff to begin work with the Town to create a memorandum of understanding to create and ADU program in the Town to be administered by the County.
- 07-01-2008 **Board of Supervisors: Public Safety/Human Services Committee Report/Recommendation for the Housing Trust Fund.** 1) Adoption of the Housing Trust Fund Application process 2) Allocation of \$500,000 from County of Loudoun Housing Trust to fund the ADU Foreclosure Purchase Program 3) Approved revisions to the Down Payment and Closing Cost Program including 3 year deferment, with 27 year amortizing loan at 5% to 10% or \$25,000 whichever is less serving clients at 30%-70% AMI.
- 11-03-2008 **Board of Supervisors: Purchase of ADU going to foreclosure (18546 Pineview Sq., Leesburg, VA).**
- 12-02-2008 **Board of Supervisors: Joint Finance/Government Services and Operations/Public Safety Human Services Committee Meeting/Funding for Housing Initiatives and Enabling Legislation.** Approval of revised

ordinance enabling County to grant or loan to non-profits developers at the January 12 2009 public hearing and allocate \$3 million for the Housing Funds application process adopted by BOS 7-1-08; \$1 million from the County of Loudoun Housing Trust allocated for strategic neighborhood initiatives including the Neighborhood Stabilization Program and \$750,000 from the County of Loudoun Housing Trust for the Public Employee Homeownership Grant program.

- 03-03-2009 **Board of Supervisors: Action to prevent the Loss of two ADU Homes to Foreclosure.**
- 04-21-2009 **Board of Supervisors: Acceptance of Deed/Purchase of Affordable dwelling Unit. Purchase foreclosed ADU.**
- 05-19-2009 **Board of Supervisors: Affordable Dwelling Unit Memorandum of Agreement (MOA) with the County and the Town of Leesburg. Approval of the MOA.**
- 05-19-2009 **Board of Supervisors: Public safety and Human Services Committee Report/ ADU Program/ Release of Lots from Covenants after Full Ordinance Compliance/ Delegation of Authority to Director of the Department of Family Services (DFS). Approval of the Director of DFS to execute deeds releasing lots from ADU covenants.**
- 07-21--2009 **Board of Supervisors: Intent to Propose New Chapter of the Codified Ordinances of Loudoun County/Public Employee Grants (PEG) for Homeownership. Adoption PEG Ordinance.**
- 09-1-2009 **Board of Supervisors: Public Safety and Human Services Committee Report/ Affordable Dwelling Unit Program – Process for Designation of “Qualified” Non-Profit Organization to Purchase ADUs. Approval of the designation process for qualifying non-profits to purchase ADUs.**
- 11-04-2009 **Board of Supervisors: Joint Finance/Government Services and Operations Committee and Public Safety Human Services Committee Report/ Joint Trust Fund Committee Recommendations. \$500,000 allocated from the Housing Funds approved for Habitat of Humanity for the Erin Peterson project (\$276,250) with the remainder to be used to rehabilitate foreclosed homes in Sterling and Sugarland.**

11-09-2009	Board of Supervisors: Proposed Sale of County Owned Affordable Dwelling Unit. Sale of 21838 Cobble Pond Sq.
12-15-2009	Board of Supervisors: Purchase by County of Two Affordable Dwelling Units. Staff directed to purchase foreclosures and resale to ADU certificate holders.
03-16-2010	Board of Supervisors: Approval to Purchase Affordable Dwelling Unit. Approval to purchase of foreclosed unit.
04-12-2010	Board of Supervisors: Proposed Sale of County Owned Affordable Dwelling Unit. Approval to sell 20274 Sprucegrove Sq.
05-18-2010	Board of Supervisors: Acquisition of Interest in Affordable Dwelling Unit. Approval of Funds to purchase two notes (on Twum Property) to keep property in the ADU program.
07-07-2010	Board of Supervisors: Purchase of Affordable Dwelling Unit/ 23098 Minerva Dr., Brambleton, VA. Approval to purchase foreclosed ADU.
11-03-2010	Board of Supervisors: Market Sale of Affordable Dwelling Unit. Approval to sell 18152 Mill House Sq., Leesburg, VA
12-13-2010	Board of Supervisors: Proposed Sale of County Property/ Affordable Dwelling Unit. Approval to sell 20276 Sprucegrove Sq., Ashburn, VA

CURRENT MEMBERSHIP*
AFFORDABLE DWELLING UNIT ADVISORY BOARD (ADUAB)

Pamela McGraw (Qualified, Non Profit Housing Group Providing services in Loudoun County), Co-Chair
Dawn Billow (Real Estate Agent), Co-Chair
Suzanne Volpe, Supervisor (Board of Supervisors Representative)
Dwight Stonerook (Architect and Leesburg Representative)
Ryan Sauder (Program Participant)
Rich Klusek (Loudoun County Planning Department Representative)
Shaun Kelley (Lending Industry Representative financing residential development in Loudoun County)
Steve Schulte (Residential builder or developer with extensive experience in producing multi-family units)
James A. Anders, Jr. (Residential builder or developer with extensive experience in producing single-family detached and attached units)
Vacant (Public at Large who does not qualify to fill the civil engineer, architect, land surveyor, planner, lending institution, Board of Supervisors , residential builder with single-family or multi-family experience, Loudoun County Planning Department membership positions)
Vacant (Civil Engineer/Land Surveyor/Planner with extensive experience in practice in Loudoun County)

***Chapter 1450 prescribes specific qualification for members. The membership includes the qualification category that each member is filling.**

Complexes That Accept the ADU Rental Certificate

1. The Fields at Cascades
21260 Huntington Square
Sterling, VA 20166
Phone # 703-404-2000
2 Bedroom/1 Bath-\$993
2. The Fields of Sterling
46910 Shady Point Square
Sterling, VA 20164
Phone # 703-404-9711
2 Bedroom/1.5 Bath-\$990
2 Bedroom/2 Bath-\$1,020
3 Bedroom/2 Bath-\$1,185
3. Evans Ridge Apartments
428 Evans Ridge Terrace N.E.
Leesburg, VA 20176
Phone # 703-779-0027
2 Bedroom-\$1,087
3 Bedroom-\$1,258
4. StoneRidge Apartments
19900 Broad Vista Terrace
Ashburn, VA 20147
Phone # 703-729-9810
1 Bedroom-\$500
2 Bedroom-\$605
3 Bedroom-\$688
5. Broadlands Apartments
21799 Crescent Park Square
Ashburn, VA 20148
Phone # 703-729-3600
1 Bedroom/1 Bath-\$777
2 Bedroom / 2 Bath-\$932
3 Bedroom/2 Bath-\$1077
6. Village @ Potomac Falls
20576 Idle Brook Terrace
Sterling, VA 20165
Phone # 703-421-9111
1 Bedroom/1 Bath-\$645
2 Bedroom/2 Bath-\$805
3 Bedroom/2 Bath-\$905
7. The Reserve at Town Center
20723 Reserve Falls Terrace
Potomac Falls, VA 20165
Phone # 571-203-8966
1 Bedroom/1 Bath-\$694
2 Bedroom/2 Bath-\$830
8. Camden Lansdowne**
43805 Stoney Brook Square
Leesburg, VA 20176
Phone # 703-726-3900
1 Bedroom/1 Bath-\$700
2 Bedroom/2 Bath-\$890/\$920
3 bedroom/2 Bath-\$1,050
9. The Abbey @ South Riding
43001 Thoroughgood Drive
South Riding, VA 20152
Phone # 703-327-9311
1 Bedroom/1 Bath-\$799
2 Bedroom/2 Bath-\$899
3 Bedroom/2 Bath-\$999
10. Camden Silo Creek**
43449 Silo Creek Terrace
Ashburn, VA 20147
Phone # 703-729-7744
1 Bedroom/1 Bath-\$630/\$730
2 Bedroom/2 Bath-\$888
3. Bedroom/1 Bath-\$1034
11. The Ashborough
20155 San Joaquin Terrace
Ashburn, VA 20147
Phone # 571-223-2400
1 Bedroom/1 Bath-\$688/\$775
2 Bedroom/2 Bath-\$911
3 Bedroom/2 Bath-\$1,035
12. Westwind Farms**
22541 Hickory Hill Square
Ashburn, VA 20148
Phone # 703-729-3100
1 Bedroom/1 Bath-\$691/\$697
2 Bedroom/2 Bath-\$833
3 Bedroom/2 Bath-\$951

*rents subject to change

**\$49 cable fee & \$30 valet trash fee

10/2012

13. Residences at Moorefield Village

22555 Leanne Terrace

Ashburn, VA 20148

Phone # 571-223-2002

1 Bedroom/1 Bath-\$869

2 Bedroom/2 Bath-\$1,008

3 Bedroom/2 Bath-\$1,213

14. Potomac Square Apartments

21240 McFadden Square #101

Sterling, VA 20165

Phone # 703-421-7555

1 Bedroom/1 Bath-\$870

2 Bedroom/2 Bath-\$1036

Process for ADU Purchase Program Application

1. Applicant visits www.loudoun.gov/adu for information and on-line application.
2. Applicant follows procedures on the website to apply:
 - a. Completes pre-screening to determine eligibility.
 - b. Gathers required paperwork listed on checklist.
 - c. Completes ADU On-Line application.
 - d. Submits all documents within 10 days.
3. The County reviews application and paperwork according to the checklist requirements. All information should be readily available as it is primarily the same documentation needed for a mortgage application.
 - a. If the Applicant has submitted all required paperwork and appears to meet the parameters of the program, the Applicant is scheduled for the ADU Purchase In-take session
 - b. If the Applicant is missing required paperwork, the County notifies them requesting missing information and submission within 5 days
4. Applicant is registered for the next available ADU Purchase In-take session once the required paperwork has been submitted within a 15-30 day period.
5. Applicant receives an ADU Certificate of Eligibility once all required application paperwork is verified to be accurate. The Applicant typically has the Certificate of Eligibility within 2 weeks of the In-take session.

Process for ADU Rental Application

1. Applicant visits www.loudoun.gov/adu for information and on-line application.
2. Applicant follows procedures on the website to apply to include:
 - a. Completes pre-screening to determine eligibility
 - b. Gathers required paperwork listed on checklist
 - c. Completes ADU On-Line application
 - d. Submits all documents within 10 days
3. The County reviews application and paperwork. (All information requested is primarily the same documentation needed for a rental application.)
 - a. If the applicant has submitted all required paperwork and appears to meet the parameters of the program, the applicant will be scheduled for the ADU Rental In-take session
 - b. If the applicant is missing required paperwork, the County will send an e-mail listing all missing information to the applicant and request that the information be submitted within 5 days
4. Applicant is registered for the next available ADU Rental In-take session once the required paperwork is completed. At this time, applicants are being scheduled within a 15-30 day period.
5. Applicant receives an ADU certificate for eligibility once all required paperwork has been submitted, an in-take session has been completed and the County has verified application paperwork is accurate and meets the parameters of the program. The applicant typically has the Certificate of Eligibility within two weeks of the in-take session.

Process for ADU Rental Certificate Holder to Sign a Lease*

1. The Certificate Holder contacts apartment complexes that are listed on the document entitled "Complexes that Accept ADU Rental Certification" as soon as they receive a Certificate of Eligibility.
2. The Certificate Holder completes the apartment complex application and pays the application fee when an ADU rental is available.
3. The Certificate Holder signs a lease when they receive approval from the apartment complex. The Certificate Holder is subject to a security deposit, pet deposit and any one-time amenity fees required by the complex.
4. The Certificate Holder either moves in to the ADU Rental Unit or is placed on a waiting list for the next available ADU if none are available. The Certificate Holder will be contacted by the complex when an ADU is available.
5. The apartment complex leasing office sends a copy of the lease to the County.

*Apartment Complexes are required to allocate ADUs by bedroom size. ADUs should mirror the percentage of market rate units of the same bedroom size.

Process for Filing Builder's Notice of Availability

1. Builder contacts the County.
2. Builder completes Pro-Forma to determine ADU price.
 - a. If price is at or below the ADUAB established ADU approved price then the Notice of Availability (NOA) paperwork is sent to the County.
 - b. If the price exceeds the ADUAB established ADU approved price or if the requested land development costs exceed program maximums, the County schedules an ADUAB Builder's Committee meeting to review the project common development costs and the specific section development costs.
 - i. If these costs are determined by the Committee to be acceptable, then the item is brought to ADUAB to affirm approval of the land development costs and the ADU price for the subject development.
3. Once the Builder has an ADUAB price and a zoning permit for the ADUs, the Builder submits the NOA to the County and includes copies of recorded covenants, construction agreement form and building permit(s) for the ADUs.
4. The County signs off on the NOA and ADUs are marketed to Certificate Holders.

Builders' Process for Marketing of ADU Units:

Once the NOA is signed by the County, ADUs can be sold to Certificate Holders on the waiting list.

1. The Builder provides marketing materials to the County that includes: the ADU sales price, applicable monthly fees, floor plans, standard unit and community amenities, and the name, address and phone number of the Builder's Sales Representative. The marketing information is provided electronically and in hard copies, along with postage paid envelopes.
2. The County distributes marketing materials to Certificate Holders on the waiting list according to the waiting list priorities.
3. The County sends the Builder's Sales Representative a copy of the waiting list by priority. At the same time, the County copies the Builder's Sales Representative on the email distribution of marketing materials to ADU Certificate Holders. This e-mail starts the initial 10 calendar day period.
4. The ADU Certificate Holder has 10 calendar days from the date on the marketing letter to contact the Builder, make an appointment to view the home, and write a contract. The Builder's Sales Representative provides the County with an ADU status tracking sheet each Monday.
5. During this Initial 10 day period, the Builder accepts contracts according to the waiting list priority order.
6. After the initial 10 day period, the Builder can accept contracts from any ADU Certificate Holder on a first-come, first-served basis after the Certificate holders that called during the initial 10 day period have been served and units are still available.
7. Once a contract is signed and ratified, the Builder's Sales Representative sends a copy to the County.
8. The Builder's Sales Representative provides information regarding the closing to the County.

ADU Employment by Industry

ADU Purchase Occupation Report		
	#	%
Accommodations/Food	49	2.97%
Administrative	93	5.63%
Airport	78	4.72%
Childcare	5	0.30%
Construction	10	0.61%
Federal Government	220	13.33%
Finance/Ins	53	3.21%
Healthcare/Non-Hospital	8	0.48%
INOVA Loudoun	94	5.69%
Loudoun County Government	85	5.15%
Loudoun County Public Safety	43	2.60%
Loudoun County Public Schools	164	9.93%
Manufacturing	13	0.79%
Other County Government	16	0.97%
Other Hospitals	80	4.85%
Other Public Safety	2	0.00%
Other Schools	144	8.72%
Prof/Tech	45	2.73%
Real Estate	2	0.12%
Retail	287	17.38%
Security	22	1.33%
State Government	28	1.70%
Transportation and Warehousing	54	3.27%
Other	49	2.97%
Subtotal:	1644	99.58%
Alimony	0	0.00%
Child Support	5	0.30%
Gift Money	0	0.00%
Retirement	0	0.00%
Social Security	0	0.00%
Social Security Disability	2	0.12%
Subtotal (other):	7	0.42%
Total	1651	100.00%

ADU Rental Occupation Report		
	#	%
Accommodations/Food	52	8.54%
Administrative	3	0.49%
Airport	51	8.37%
Childcare	41	6.73%
Construction	18	2.96%
Federal Government	9	1.48%
Finance/Ins	15	2.46%
Healthcare/Non-Hospital	60	9.85%
INOVA Loudoun	6	0.99%
Loudoun County Government	6	0.99%
Loudoun County Public Safety	1	0.16%
Loudoun County Public Schools	29	4.76%
Manufacturing	2	0.33%
Other County Government	0	0.00%
Other Hospitals	7	1.15%
Other Public Safety	1	0.16%
Other Schools	16	2.63%
Prof/Tech	92	15.11%
Real Estate	0	0.00%
Retail	131	21.51%
Security	16	2.63%
State Government	2	0.33%
Transportation and Warehousing	23	3.78%
Other	28	4.60%
Subtotal:	609	86.51%
Alimony	2	0.33%
Child Support	32	5.25%
Gift Money	16	2.63%
Retirement	12	1.97%
Social Security	22	3.61%
Social Security Disability	11	1.81%
Subtotal (other):	95	13.49%
Total	704	100.00%

County of Loudoun Housing Trust
Summary of Funds (July 2001 through January 31, 2013)

Revenues

Market Sales, Cash Buy-outs, Proffers	\$ 16,503,218
Interest Earned	\$ 576,240
Total Revenue	\$ 17,079,458

Transfers to other Projects

ADU FORECLOSURE PURCHASE PROGRAM	\$ (500,000)
DOWN PAYMENT CLOSING COST PROGRAM	(375,000)
HOME IMPROVEMENT PROGRAM	(400,000)
ACQUISITION FUNDS TRANSFER	(100,000)
INVESTOR REHABILITATION LOAN PROGRAM	(125,000)
CNTY EMPLOYEE LIVE WHERE YOU WORK NSP	(150,000)
CNTY EMPLOY LIVE WHERE YOU WORK COUNTYWIDE	(225,000)
HABITAT NEIGHBORHOOD STABILIZATION PROGRAM	(224,000)
HABITAT ERIN PETERSEN PROJECT	(276,250)
SCHOOL EMPLOYEE LIVE WHERE YOU WORK	(150,000)
SCH EMPLOYEES LIVE WHERE YOU WORK NSP	(225,000)
Total Transfers	\$ (2,750,250)

Expenditures

Title Searches	(60,677)
Payments to Habitat for Humanity	(400,000)
Expenditure Total	\$ (460,677)
County of Loudoun Housing Trust Balance	\$ 13,868,531

COUNTY OF LOUDOUN HOUSING TRUST

This COUNTY OF LOUDOUN HOUSING TRUST (the "Trust"), made and entered into this 12th day of AUGUST, 1997, by the BOARD OF SUPERVISORS OF LOUDOUN COUNTY, VIRGINIA, a body politic existing under the laws of the Commonwealth of Virginia (the Grantor and Trustee hereinafter referred to as "Trustee").

WITNESSETH:

WHEREAS, the Trustee is the governing body of Loudoun County, Virginia (the "County"); and

WHEREAS, the Trustee is authorized to adopt an affordable dwelling unit housing program pursuant to authority granted under the Code of Virginia; and

WHEREAS, the Trustee has adopted an Affordable Dwelling Unit Housing Program, which program is reflected in Article VII of the Loudoun County Zoning Ordinance and Chapter 1450 of the Codified Ordinances of Loudoun County (collectively referred to herein as "ADU Ordinance"); and

WHEREAS, the Affordable Dwelling Unit Housing Program places restrictions on the resale of affordable dwelling units for a time period of fifty (50) years after the initial sale of an affordable dwelling unit; and

WHEREAS, these restrictions on the resale of an affordable dwelling unit occurring more than fifteen (15) years after the initial sale but less than fifty (50) years after the initial sale of the affordable dwelling unit require that the Trustee receive one-half of the difference between the actual sales price and that price allowed under the provisions of the ADU Ordinance; and

WHEREAS, the ADU Ordinance requires these funds to be placed in the County of

ATTACHMENT 10

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Loudoun Housing Trust; and

WHEREAS, the ADU Ordinance allows for modifications to the requirements for the provision of affordable dwelling units in a project where they are required under the terms of the ADU Ordinance; and

WHEREAS, such modifications can result in a cash contribution to the County to assist the County in the provision of affordable dwelling units; and

WHEREAS, the Trustee desires that any cash contributed to the County for the provision of affordable dwelling units as a result of such modifications be placed in the County of Loudoun Housing Trust; and

WHEREAS, the Trustee has received cash contributions for the provision of affordable dwelling units prior to the adoption of the Affordable Dwelling Unit Program and the County of Loudoun Housing Trust; and

WHEREAS, the Trustee may receive funds from other sources to assist in the provision of affordable dwelling units in the County; and

WHEREAS, the Trustee desires to establish this County of Loudoun Housing Trust in order to hold all previous and future cash payments, not otherwise committed, received by the County and/or Trustee, from any and all sources, for the purpose of facilitating the provision of affordable dwelling units in the County of Loudoun; and

WHEREAS, the Trustee desires that any such realized cash payments should be used to facilitate the provision of affordable dwelling units to people eligible to purchase or rent affordable dwelling units in Loudoun County as defined in the ADU Ordinance ("Beneficiaries"); and

WHEREAS, it is the desire and intent of the Trustee to diligently use the funds in this County of Loudoun Housing Trust for the purposes stated herein.

NOW THEREFORE, in consideration of the foregoing, the Trustee hereby establishes this County of Loudoun Housing Trust as follows:

1. The above recitals are incorporated herein by this reference and made a part hereof.
2. The Trustee hereby directs that all funds which it currently holds for the provision of affordable dwelling units in the County, and which are not otherwise committed, be placed in the County of Loudoun Housing Trust.
3. Payments to the County of Loudoun Housing Trust shall be made pursuant to:
 - (a) any cash proceeds received by the Trustee as a result of the sale of affordable dwelling units subject to the provisions of the ADU Ordinance at fair market value at any time after fifteen (15) years but prior to fifty (50) years after the initial sale of the affordable dwelling unit;
 - (b) any cash contributions received as a result of modifications granted by the Trustee pursuant to the applicable provisions of the ADU Ordinance; and
 - (c) any other cash received by the Trustee from any source for the purpose of furthering the provision of affordable dwelling units in Loudoun County.
4. The Trustee shall use the monies in the Trust to further the provision of affordable dwelling units in Loudoun County. In furtherance thereof, the Trustee shall have the following powers and duties:
 - (a) to spend the monies in the Trust in the manner in which the Trustee

deems most appropriate in order to further the provision of affordable dwelling units to the Beneficiaries;

" (b) to prosecute or defend any action for the protection of this Trust, the Trustee in the performance of the Trustee's duties, or both, and to pay, contest and settle any claim by or against the Trust or the Trustee in the performance of the Trustee's duties;

(c) to execute and deliver any instruments necessary or useful in the exercise of any of these powers;

(d) to invest and reinvest the Trust's funds in cash or in the form of deposits in any of the securities listed in Chapter 18, Title 2.1, Code of Virginia of 1950, as amended, entitled "Investment of Public Funds" and Chapter 23, Title 2.1, Code of Virginia of 1950, as amended, entitled "Virginia Security for Public Deposits Act" (by way of example rather than limitation, Trustee may invest in obligations of the Commonwealth of Virginia, obligations of the United States of America, obligations of any County or City, bonds secured on real estate, obligations of industrial and finance corporations, and certificates of deposit); and

(e) to revise its affordable housing program and ADU Ordinance from time to time as it deems advisable.

5. The Trustee waives the payment of any compensation for its services as Trustee hereunder. However, the Fund Administrator (as herein defined) may retain five percent (5%) of the interest earned on the Trust to cover the cost of administering the Trust.

6. The Trustee hereby delegates its administrative duties under this Trust to the

Director of Financial Services of Loudoun County (the "Fund Administrator"). The Fund Administrator shall:

- (a) place monies received by the County and/or Trustee for the provision of affordable housing in Loudoun County into the Trust;
- (b) make all necessary disbursements from the Trust;
- (c) maintain records of payments into the Trust and of all disbursements from the Trust.

7. The Trustee and the Fund Administrator shall not be required to post bond or any other security for the faithful performance of its or their duties as Trustee or appointee as provided herein.

8. Termination. This Trust shall terminate in thirty (30) years, however, the Trust shall automatically renew for ten (10) year periods unless the Trustee affirmatively acts to cancel any such automatic renewal.

9. Validity. If any provision of this Trust shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such validity, illegality or unenforceability shall not affect any other provision of this Trust, and in lieu of each such invalid, illegal or unenforceable provision there shall be added automatically as part of this Trust, a provision as similar in terms to such invalid, illegal or unenforceable provision as may be possible and be valid, legal and enforceable; and, if no such provision may be added in lieu thereof, the balance of the provisions shall be enforceable as if such invalid, illegal or unenforceable provision was not present.

10. Governing Law. This Trust shall be governed by and construed in

accordance with the laws of the Commonwealth of Virginia.

11. Trustee's Covenants.

(a) Trustee hereby covenants that this Trust does not violate any laws, ordinances, rules and regulations and the like governing trustees.

(b) Trustee covenants that it has full power and authority to enter into and perform this Trust and to incur the obligations herein, and has taken all action necessary to authorize the execution, delivery and performance of this Trust.

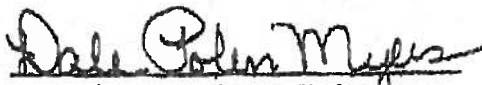
(c) Trustee covenants that this Trust is valid, binding and enforceable in accordance with its terms.

12. Binding Effect. This Trust shall enure to the benefit of, and shall be binding upon, the respective successors and permitted assigns of the parties hereto.

13. Amendments. The Trustee may amend the terms of this Trust as it deems necessary, provided such amendment is consistent with the purpose of the Trust to further the provision of affordable housing in Loudoun County

IN WITNESS WHEREOF, the Trustee has caused this Trust agreement to be executed by its duly authorized officer.

THE BOARD OF SUPERVISORS OF
LOUDOUN COUNTY, VIRGINIA


By: Dale Polen Myers, Chairman

STATE OF VIRGINIA
COUNTY OF LOUDOUN, to-wit:

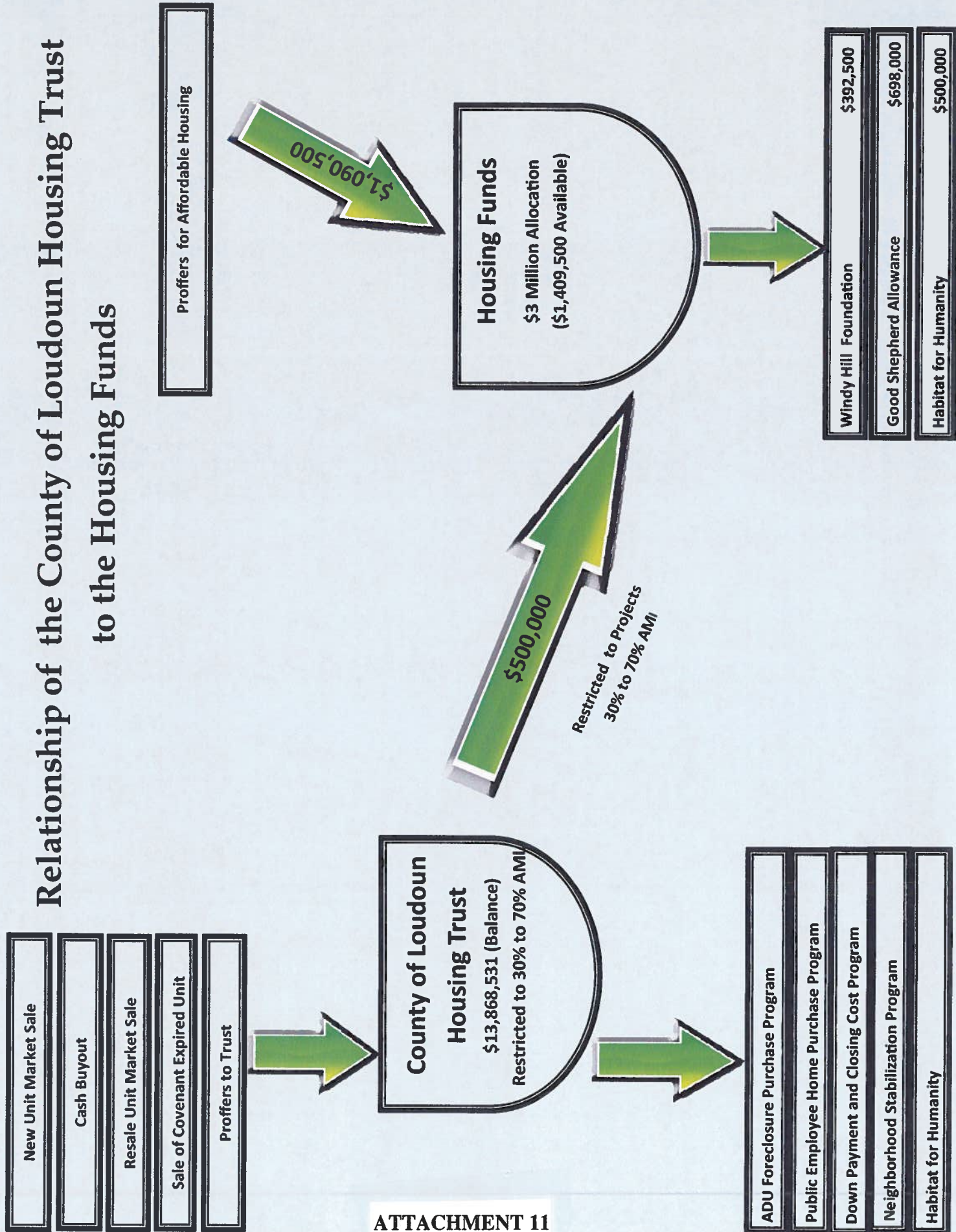
Subscribed and sworn to before me this 12th day of August, 1997 by
Dale Polen Myers, Chairman, Board of Supervisors of Loudoun County, Virginia, by authority
of said Board, in my State and County as aforesaid.

My Commission Expires:

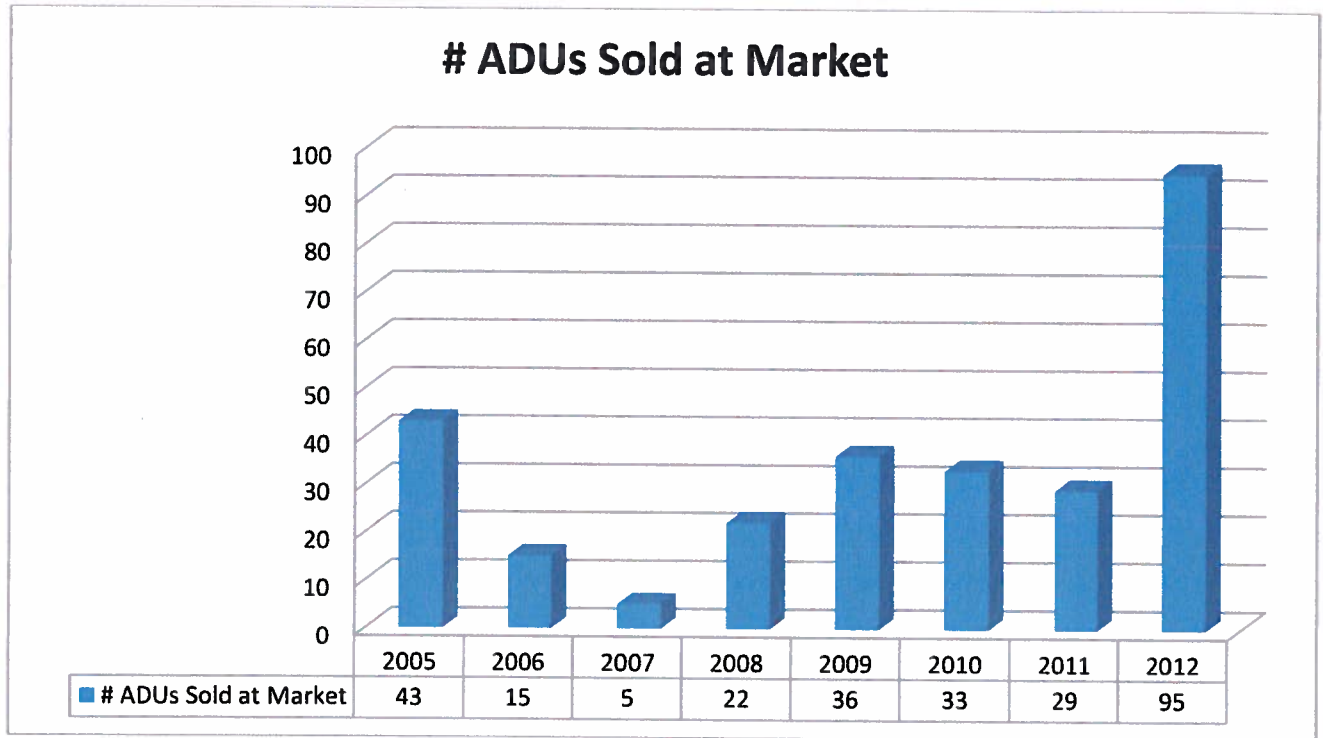
October 31, 1998

Sally E. Kasper
Notary Public

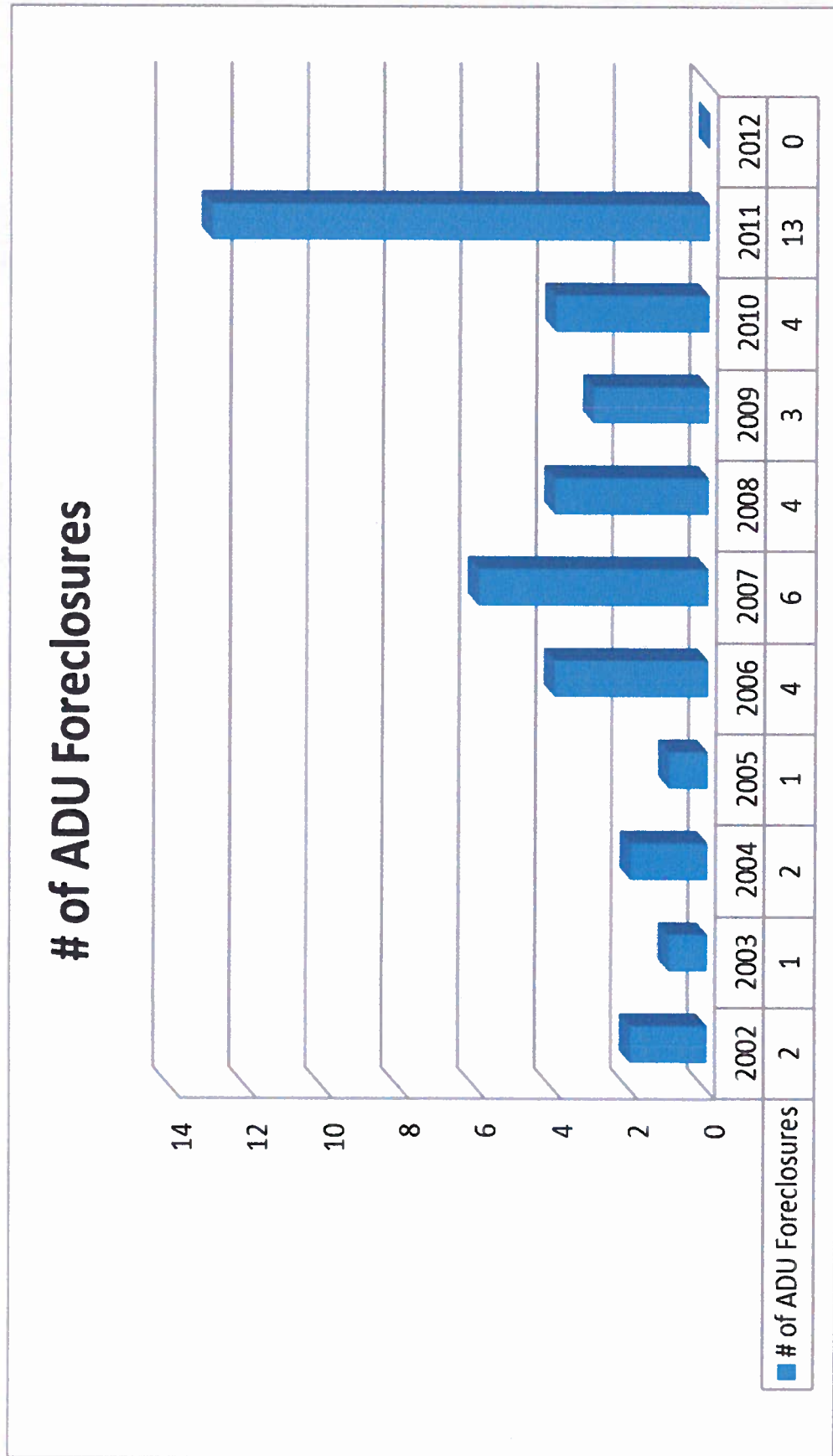
Relationship of the County of Loudoun Housing Trust to the Housing Funds



Market Sales



ADU Foreclosures



ADU 15-Year Covenant Expirations by Year

